



DEPARTMENT OF
ECOLOGY
State of Washington

State Implementation Plan (SIP) Revision Including Revised Puget Sound Clean Air Agency Regulation I

Rule SIP Revision

December 2019

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Publication and Contact Information

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For more information contact:

Air Quality Program
P.O. Box 47600
Olympia, WA 98504-7600
Phone: 360-407-6800

Washington State Department of Ecology – www.ecology.wa.gov

- Headquarters, Olympia 360-407-6000
- Northwest Regional Office, Bellevue 425-649-7000
- Southwest Regional Office, Olympia 360-407-6300
- Central Regional Office, Union Gap 509-575-2490
- Eastern Regional Office, Spokane 509-329-3400

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State Implementation Plan (SIP) Revision Including Revised Puget Sound Clean Air Agency Regulation I

Rule SIP Revision

Air Quality Program
Washington State Department of Ecology
Olympia, Washington

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Acronyms and Abbreviations

CAA	Federal Clean Air Act
Ecology	Washington State Department of Ecology
EPA	U.S. Environmental Protection Agency
IBR	Incorporation by Reference
NA	Not Applicable
NAAQS	National Ambient Air Quality Standards
NSR	New Source Review
PSCAA	Puget Sound Clean Air Agency
PSD	Prevention of Significant Deterioration
RCW	Revised Code of Washington
SIP	State Implementation Plan
WAC	Washington Administrative Code

Executive Summary

Washington State Department of Ecology (Ecology) requests that the Environmental Protection Agency (EPA) approve this revision to the Washington State Implementation Plan (SIP) proposed by the Puget Sound Clean Air Agency (PSCAA). The proposed SIP revision updates portions of the PSCAA air quality regulations (Regulation I) currently in the SIP, removes obsolete regulations, and updates the subset of Chapter 173-400 WAC, General Regulations for Air Pollution Sources, that apply in PSCAA's jurisdiction. The Washington SIP currently includes previous versions of these rules approved by the EPA. This SIP revision is applicable in PSCAA's jurisdiction in King, Kitsap, Pierce, and Snohomish Counties of Washington State.

Introduction

Background

The federal Clean Air Act (CAA) (42 U.S.C. 7401 et seq.) authorizes EPA to adopt National Ambient Air Quality Standards (NAAQS) to protect public health and welfare. The CAA requires states to develop and adopt state implementation plans (SIPs) to show how they attain and maintain the latest NAAQS and relevant federal rules. In order to include the revised state and local clean air agency rules and programs in the SIP, Ecology submits SIP revisions to EPA for approval after a minimum 30 day notice, public comment period, and, if requested, a public hearing (40 CFR 51.102(a)). State and local agency regulations become federally enforceable when EPA approves inclusion of them into the SIP.

Chapter 70.94 Revised Code of Washington (RCW) and CAA authorize Puget Sound Clean Air Agency (PSCAA) to adopt regulations for the control of air contaminant emissions in its jurisdiction.

Scope and purpose of SIP revision

The Washington SIP currently includes previous versions of PSCAA rules, approved by EPA. The most recent EPA approved updates to PSCAA Regulation I occurred in 2013, but many PSCAA SIP approved provisions date back to the 1990's. Ecology requests EPA include sections of the revised PSCAA regulations for air pollution control (Regulation I) in the Washington SIP as listed in this document.

This SIP revision applies to PSCAA's jurisdiction in King, Kitsap, Pierce, and Snohomish Counties of Washington State. This SIP revision does not apply where PSCAA does not have jurisdiction including:

- Major energy facilities that are under the jurisdiction of the Energy Facility Site Evaluation Council (EFSEC);
- Kraft pulping mills, sulfite pulping mills, and primary aluminum plants;
- Issuing prevention of significant deterioration (PSD) permits; or
- Land under jurisdiction of any Indian tribe. This SIP revision does, however, apply on non-trust land within the exterior boundaries of the Puyallup Indian Reservation because PSCAA's jurisdiction includes these lands (40 CFR 52.2470(c) – Table 1).

Ecology's request

In this SIP submittal, Ecology requests that EPA:

- Approve the submitted portions of the updated PSCAA Regulation I rules found in Table 1 into the SIP to be applicable in PSCAA jurisdiction. These provisions include a new Regulation I Section, Components of a New Source Review Program (6.01). The Regulation

I provisions apply in lieu of, or supplement, the Chapter 173-400 Washington Administrative Code (WAC) statewide provisions.

- Approve the Chapter 173-400 WAC sections incorporated by reference (IBR) in PSCAA Regulation I Section 6.01 (Table 2) that are part of the PSCAA New Source Review (NSR) Program with certain exceptions primarily related to regulation of toxic air pollutants or fees that are not part of this SIP submittal.
- Approve the Chapter 173-400 WAC sections listed in Table 3 that apply in PSCAA jurisdiction where Regulation I does not have a direct corollary.
- Approve nonregulatory and quasi-regulatory provisions in Table 4 that provide PSCAA adequate enforcement and general authority for implementing and enforcing their portion of the SIP.
- Remove outdated provisions of Regulation I and Chapter 173-400 WAC and replace them with current ones.
- Delete obsolete or out of scope provisions from the PSCAA SIP.

Public involvement

Public notice

Ecology distributed the notice for public comment on the proposed SIP revision as follows:

- Published the notice on October 21, 2019, in the newspaper *The Daily Journal of Commerce*.
- Posted the notice and any updates on Ecology's [Infrastructure, rule, & program plans](#) website, and
- Sent e-mail messages to the subscribers to the Rule and SIP listserv.

Public comment period and how to comment:

Ecology invited public comment on the proposed SIP revision for the PSCAA Regulation I from October 21, 2019, to December 6, 2019. The public could submit comments to Ecology using the following methods:

- [Comment](#) online.
- Attend a public hearing on December 4, 2019 if requested by November 21, 2019.
- Mail to Colleen Stinson, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

Public hearing upon request

Ecology offered the public comment period and hearing as required in 40 CFR 51.102 and the State Administrative Procedure Act, Chapter 34.05 RCW. Ecology scheduled a public hearing for the proposed SIP revision at 11:00 a.m. on December 4, 2019 at the PSCAA office, 1904 3rd

Ave Suite 105, Seattle, WA 98101. The public could have requested a public hearing [online](#) or by contacting Colleen Stinson at colleen.stinson@ecy.wa.gov or (360) 407-6837.

Ecology cancelled the public hearing because we did not receive a request by November 21, 2019. We announced the cancellation on our [Public input and events - Listing](#) and the [Infrastructure, rule, & program plans](#) webpages.

Response to comments

Ecology developed a written response to the comment we received during the public comment period (Appendix C.4). Ecology did not change this document in response to the comment received from the public.

SIP revision appendices

Appendix A includes provisions that are new, changed, or removed from the current SIP in Appendices A.1 through A.3. Appendix A.4 includes previously approved but not incorporated by reference provisions that are nonregulatory and quasi-regulatory provisions.

Appendix B.1 contains the PSCAA letter requesting that Ecology add these provisions to the SIP and submit the PSCAA SIP revisions to EPA for approval. Appendix B.2 contains the strikethrough/underline and highlighted language of Regulation I. The strikethrough/underline language shows changes to Regulation I since the last EPA approval and the highlighted portions indicate what we are including in the updated PSCAA portion of the SIP.

Appendix C contains the public involvement process for this SIP revision including the response to comments.

Appendix D contains the SIP adoption order stating that the Washington Department of Ecology approves and adopts this SIP revision as part of the Washington SIP.

Difference between public comment draft and final document

Ecology made the following changes between the public review draft SIP revision and this final SIP revision:

- Added this section.
- PSCAA updated Regulation I to change the federal regulation reference date and requested that the most up to date federal reference date be submitted as follows:

AMENDATORY SECTION

SECTION 3.25 FEDERAL REGULATION REFERENCE DATE

Whenever federal regulations are referenced in Regulation I, II, or III, the effective date shall be July 1, ((2018)) 2019.

- Updated the rule effective date for the Federal Regulation Reference Date in Appendix A.1 Table 1 Article 3, General Provisions, Section 3.25 from 12/01/18 to 11/01/19. PSCAA updates this annually.

- Documented the public input during the public comment period, and how we met the state and federal procedural requirements.
- Made non-substantive changes including grammar, spelling, removed redundancies, and formatted for clarity and consistency purposes.

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Appendix A. PSCAA SIP revisions overview tables

Appendix A.1 Revisions to Regulation I

PSCAA submitted revisions to the following Regulation I articles. Table 1 lists the Regulation I provisions that supplement, or act in lieu of, the statewide Chapter 173-400 WAC provisions under PSCAA's jurisdiction. Revised sections within those articles are in Table 1.

- Article 1: Policy, Short Title, and Definitions
- Article 3: General Provisions
- Article 6: New Source Review
- Article 7: Operating Permits
- Article 9: Emission Standards
- Article 12: Standards of Performance for Continuous Emission Monitoring Systems

Table 1: Sections with PSCAA requested revisions to Regulation I

Regulation I Section	Section title	Rule effective date	Proposed SIP action	Explanation
1.01	Policy	11/01/99	Submit unchanged	Replaces WAC 173-400-010.
1.07	Definitions	12/01/18	Revise	Update definitions and remove (w) "Toxic Air Pollutant (out of scope).
3.03(f)	General Regulatory Orders	02/01/12	Submit	New.
3.04	Reasonably Available Control Technology	07/01/12	Revise	Except (e). Replaces WAC 173-400-040(1)(c).
3.25	Federal Regulation Reference Date	11/01/19	Submit	New. Replaces WAC 173-400-025. Wherever federal regulations are referenced in Regulation I, the effective date shall be July 1, 2019.

Regulation I Section	Section title	Rule effective date	Proposed SIP action	Explanation
5.02	Applicability and Purpose of the Registration Program	NA	Remove	Repealed in 2004 because relevant provisions were incorporated into 5.03 and 5.05.
5.03	Applicability of Registration Program	11/01/16	Revise	Except 5.03 (a)(8)(Q), 5.03(b)(5), and provisions related to toxics.
5.05	Registration Requirements	02/01/17	Revise	Except 5.05(b)(1) and (2).
6.01	Components of New Source Review Program	08/01/18	Submit	New. 6.01(a) adopts by reference parts of Chapter 173-400 WAC (see Table 2) except: WAC 173-400-114; sections referencing Chapter 173-460 WAC (toxics); and the part of 6.01(b), which states, "as delegated by agreement with the US Environmental Protection Agency, Region 10."
6.03	Notice of Construction	11/01/15	Revise	Except 6.03(b)(10) and provisions related to toxics. Replaces WAC 173-400-110 except sections (1)(c)(i), and (1)(d) which are incorporated by reference.
6.04	Notice of Construction Fees	NA	Remove	Removed from incorporation by reference in 40 CFR 522470(c). Submitted only to demonstrate adequate fee authority.
6.06	Public Notice	NA	Remove	To rely on WAC 173-400-171.
6.07	OOA Order to Prevent Construction	NA	Remove	To rely on Chapter 173-400 WAC NSR provisions.
6.08	Emission Reduction Credit Banking	NA	Remove	To rely on Chapter 173-400 WAC requirements including WAC 173-400-131 and WAC 173-400-136.
6.09	Notice of Completion	05/01/04	Revise	
6.10	Work Done Without an Approval	09/01/01	Revise	
7.09	General Reporting Requirements for Operating Permits	02/01/17	Revise	Excluding toxic air contaminants.

Regulation I Section	Section title	Rule effective date	Proposed SIP action	Explanation
9.03	Emission of Air Contaminant: Visual Standard	05/01/04	Revise	Except 9.03(e). Replaces WAC 173-400-040(2).
9.04	Opacity Standards for Equipment with Continuous Opacity Systems	05/01/04	Revise	Except 9.04(d)(2) and 9.04(f).
9.07	Sulfur Dioxide Emission Standard	05/19/94	Submit	Replaces WAC 173-400-040(7).
9.08	Fuel Oil Standards	05/01/04	Revise	For regulation of criteria pollutants only.
9.09	Particulate Matter Emission Standards	06/01/98	Submit	Replaces WAC 173-400-050(1) and (3) and WAC 173-400-060. Remove WAC 173-400-050(2) consistent with 79 FR 39351.
9.11(a)	Emission of Air Contaminant: Detriment to Person or Property	04/17/99	Submit	New. Replaces WAC 173-400-040(6).
9.13	Emission of Air Contaminant: Concealment and Masking Restricted	06/09/88	Submit	New. Replaces WAC 173-400-040(8).
9.15	Fugitive Dust Control Measures	04/17/99	Submit	Replaces WAC 173-400-040(9)(a).
9.16	Spray-coating Operations	12/02/10	Revise	
9.18	Crushing Operations	03/02/12	Submit	New.
12.03	Continuous Monitoring Systems	11/01/15	Revise	Replaces WAC 173-400-105(7).

Appendix A.2 PSCAA Section 6.01 New Source Review changes

The PSCAA New Source Review (NSR) permitting program incorporates by reference these portions of Chapter 173-400 (WAC) to apply in PSCAA jurisdiction for statewide consistency and subject to the same exceptions that apply to Ecology's direct jurisdiction. Note: PSCAA adopts by reference WAC 173-400-700 through 750 for enforcement purposes and coordination with Ecology. PSCAA is not requesting or submitting as a SIP revision the authority to approve PSD permits under WAC 173-400-700 through 750 for PSCAA's direct permitting jurisdiction. PSCAA also adopts by reference WAC 173-460-020 through 150, related to Toxic Air Pollutants; however these provisions are outside the scope of the SIP and PSCAA is not submitting them as a SIP revision.

Table 2. PSCAA New Source Review (Section 6.01)

Chapter 173-400 WAC Section	Section title	Effective date	Proposed SIP action	Explanation
030	Definitions	12/29/12	Revise	Except 030(91).
081	Emission limits during startup and shutdown	04/01/11	Revise	
110	New source review for sources and portable sources	12/29/12	Revise	110(1)(c)(i) and WAC 110(1)(d) only.
111	Processing notice of construction applications for sources, stationary and portable sources	07/01/16	IBR	New. Except: 111(3)(h); part of 111(8)(a)(v) that says "and 173-400-040", and 111(9).
112	Requirements for new sources in nonattainment areas – Review for compliance with regulations	12/29/12	Revise	
113	New sources in attainment or unclassifiable areas - Review for compliance with regulations	12/29/12	Revise	Except: 113(3) second sentence.
117	Special protection requirements for federal Class I areas	12/29/12	IBR	New.

Chapter 173-400 WAC Section	Section title	Effective date	Proposed SIP action	Explanation
171	Public notice	07/01/16	Revise	Except: The part of 171(3)(b) that says “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”; and 171(12).
200	Creditable stack height and dispersion techniques	02/10/05	Revise	
560	General order of approval	12/29/12	IBR	New, except: The part of 560(1)(f) that says “chapter 173-460 WAC”.
800	Major stationary source and major modification in a nonattainment area	04/01/11	IBR	New.
810	Major stationary source and major modification definitions	07/01/16	IBR	New.
820	Determining if a stationary source or a modification to a stationary source is subject to these requirements	12/29/12	IBR	New.
830	Permitting requirements	07/01/16	IBR	New.
840	Emission offset requirements	07/01/16	IBR	New.
850	Actual emissions plant wide applicability limitation (PAL)	07/01/16	IBR	New.
860	Public involvement procedures	04/01/11	IBR	New.

Appendix A.3 Chapter 173-400 WAC sections in PSCAA jurisdiction

Table 3: Chapter 173-400 WAC sections that apply in PSCAA jurisdiction where there is no Regulation I corollary

Chapter 173-400 WAC Section	Section title	Status in current SIP	State effective date	Proposed SIP action	Explanation
020	Applicability	In SIP	12/29/12	Revise	
040	General standards for maximum emissions	In SIP	09/16/18	Revise	Only: 040(1)(a) and (b), 040(4), and 040(9)(b).
091	Voluntary limits on emissions	In SIP	04/01/11	Revise	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants (60 CFR 28726, June 2, 1995).
100	Registration	In SIP	NA	Remove	See 79 FR 59653 October 3, 2014.
105	Records, monitoring, and reporting	In SIP	09/16/18	Revise	Except 105(7).
118	Designation of Class I, II, and III areas	Not in SIP	12/29/12	Submit	New.
131	Issuance of emission reduction credits	Not in SIP	04/01/11	Submit	New.
136	Use of emission reduction credits (ERC)	Not in SIP	12/29/12	Submit	New.
151	Retrofit requirements for visibility protection	In SIP	02/10/05	Revise	
175	Public information	Not in SIP	02/10/05	Submit	New.

Appendix A.4 Nonregulatory and quasi-regulatory provisions not incorporated by reference

The SIP in 40 CFR 52.2470(e) includes nonregulatory provisions and quasi-regulatory measures that EPA previously approved as providing PSCAA adequate enforcement and general authority for implementing and enforcing its SIP.

Table 4: PSCAA approved but not incorporated by reference Regulation I provisions

Regulation I Section	Section title	Rule effective date	Proposed SIP action	Explanation
3.01	Duties and Powers of the Control Officer	11/01/99	Submit unchanged	Approved but not IBR.
3.05	Investigations by the Control Officer	03/17/94	Submit unchanged	Approved but not IBR.
3.07	Compliance Tests	05/01/06	Revise	Approved but not IBR.
3.09	Violations – Notice	09/12/91	Submit unchanged	Approved but not IBR.
3.11	Civil Penalties	12/01/18	Revise	Approved but not IBR, updated annually.
3.13	Criminal Penalties	09/12/91	Submit unchanged	Approved but not IBR.
3.15	Additional Enforcement	09/12/91	Submit unchanged	Approved but not IBR.
3.17	Appeal of Orders	11/14/98	Submit unchanged	Approved but not IBR.
3.19	Confidential Information	09/12/91	Submit unchanged	Approved but not IBR.
3.21	Separability	09/12/91	Submit unchanged	Approved but not IBR.

Appendix B. PSCAA SIP revision packet submitted to Ecology

The documents in Appendix B contain text that cannot be made accessible in their current format. To obtain these documents in an alternate format, please email Ecology's ADA coordinator at [Ecology's ADA coordinator](#) or call (360)-407-6831. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6384

Appendix B.1 PSCAA request letter



Clean healthy air for
everyone, everywhere,
all the time.

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Craig T. Kenworthy

Phone
206-343-8800
800-552-3565
(hablamos español)

Fax
206-343-7522

Mail
1904 Third Avenue, Suite 105
Seattle, WA 98101-3317

June 24, 2019

Maia Bellon, Director
Washington Department of Ecology
300 Desmond Drive SE
Lacey, WA 98503

Subject: Revision of State Implementation Plan – PSCAA Regulation I

Dear Ms. Bellon:

Puget Sound Clean Air Agency (PSCAA) requests that Washington State Department of Ecology (Ecology) adopt the attached revisions to the Washington State Implementation Plan (SIP) and submit them to EPA for approval.

We are submitting these revisions, in part, because in January of 2014, Ecology submitted a request to EPA for a revision to the Washington State SIP that amended portions of Washington Administrative Code (WAC) Chapter 173-400, "General Regulations for Air Pollution Sources." Part of the submittal to EPA was a rule change to clarify that the entirety of Chapter 173-400 WAC applies in areas where Ecology is the air authority, and also to identify parts of Chapter 173-400 WAC where the local air authority does not have a corresponding rule and therefore the WAC will apply in the local jurisdiction.

In addition to the above reason, at various times since the last approval by U.S. EPA of the PSCAA portion of the Washington State SIP, the PSCAA Board of Directors has adopted revisions to PSCAA Regulation I. These revisions changed parts of the rules that had previously been approved into the SIP for PSCAA. We wish to update the currently approved SIP by adding, modifying, and/or removing sections of the regulations as described in the attachments to this letter. The proposed changes are necessary to make the revised PSCAA Regulation I federally enforceable and also to clarify where PSCAA has local rules that apply in lieu of the corresponding parts of WAC 173-400.

In accordance with the arrangement worked out between our agencies, we are hereby submitting this SIP update, along with supporting materials, for inclusion in the PSCAA portion of the SIP.

Sincerely,

Craig Kenworthy
Executive Director

Encl.

bw

Appendix B.2 PSCAA highlighted and strikethrough language

REGULATION I

ARTICLE 1: POLICY, SHORT TITLE, AND DEFINITIONS

SECTION 1.01 POLICY Adopted 03/13/68 (12)^{*)} Revised 11/10/71 (135), 10/10/73 (214), 09/09/99 (895)

The Puget Sound Clean Air Agency, consisting of the counties of Pierce, King, Snohomish, and Kitsap, having been activated by the Washington Clean Air Act, RCW 70.94, adopts the following Regulation to control the emission of air contaminants from all sources within the jurisdiction of the Agency, to provide for the uniform administration and enforcement of this Regulation, and to carry out the requirements and purposes of the Washington Clean Air Act and the Federal Clean Air Act.

It is hereby declared to be the public policy of the Puget Sound Clean Air Agency to secure and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and to property, foster the comfort and convenience of its inhabitants, seek public participation in policy planning and implementation, promote the economic and social development of the Puget Sound area, and facilitate the enjoyment of the natural attractions of the Puget Sound area.

SECTION 1.03 NAME OF AGENCY Adopted 03/13/68 (12) Revised 10/08/98 (872), 09/09/99 (895)

The name of the multicounty air pollution control agency comprised of the activated or inactivated air pollution control authorities of King County, Kitsap County, Pierce County, Snohomish County, and such other counties whose air pollution control authorities may now or later merge with this multicounty authority shall be known and cited as the "Puget Sound Clean Air Agency" or "Agency".

^{*)}Numbers in parentheses are Resolution #s.

SECTION 1.05 SHORT TITLE Adopted 03/13/68 (12)
Revised 09/09/99 (895)

This Regulation may be known and cited as "Regulation I of the Puget Sound Clean Air Agency".

SECTION 1.07 DEFINITIONS Adopted 03/13/68 (12)
Revised 07/08/70 (126), 11/10/71 (135), 04/12/72 (141), 05/10/72 (142), 06/13/73 (194), 03/18/76 (361), 03/13/80 (461), 10/13/83 (547), 05/10/84 (556), 02/13/86 (597), 11/12/87 (616), 06/09/88 (621), 11/10/88 (634), 12/08/88 (636), 01/12/89 (639), 08/10/89 (644), 06/13/91 (700), 01/09/92 (716), 11/19/92 (738), 04/14/94 (784) [10/08/98 \(872\)](#), [03/11/99 \(880\)](#), [09/09/99 \(895\)](#), [03/25/04 \(1024\)](#)

When used herein:

- ~~(a) — ACCEPTABLE SOURCE IMPACT LEVEL (ASIL) means a concentration of a toxic air contaminant in the outdoor atmosphere in any area that does not have restricted or controlled public access that is used to evaluate the air quality impacts of a single source. There are three types of acceptable source impact levels: risk based, threshold based, and special. Concentrations for these three types of ASILs are established by the Board after public hearing and are listed in Appendix A of Regulation III.~~
- ~~(b) — ACTUAL EMISSIONS means the average rate at which the source actually emitted air contaminants during the 2-year period preceding a specific date, and which is representative of normal source operations. To account for unusual circumstances such as strikes, the Control Officer may approve or require the use of another time period that is more representative of normal operations than is the immediately preceding 2-year period.~~
- ~~(c) — ADEQUATE SOURCE OF HEAT means the ability to maintain 70°F at a point 3 feet above the floor in all normally inhabited areas of a dwelling.~~
- (a) ~~(d)~~ — AGENCY means the Puget Sound [Clean](#) Air ~~Pollution Control~~ Agency.
- (b) ~~(e)~~ — AIR CONTAMINANT means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.
- (c) ~~(f)~~ — 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. [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.](#)
- ~~(g) — AIR POLLUTION EPISODE means a period when a forecast, alert, warning, or emergency air pollution stage is declared by the Department of Ecology pursuant to RCW 70.94.715.~~
- ~~(h) — ALLOWABLE EMISSIONS means the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to a~~

~~federally enforceable permit that limits the operating rate, or hours of operation, or both) and the most stringent of the following:~~

~~(1) — Any applicable standard under 40 CFR Parts 60, 61, and 63;~~

~~(2) — Any applicable emission standard under Regulation I, II, or III;~~

~~(3) — Any applicable State Implementation Plan emission standard, including those with a future compliance date; or~~

~~(4) — Any applicable emission standard specified in an Order of Approval or operating permit, including those with a future compliance date.~~

(d) ~~(i) —~~ **AMBIENT AIR** means the portion of the atmosphere, external to buildings, to which the general public has access. surrounding outside air.

~~(j) —~~ **AMBIENT AIR QUALITY STANDARD** means an established concentration, exposure time, and frequency of occurrence of an air contaminant in the ambient air that shall not be exceeded.

~~(k) —~~ **BEST AVAILABLE CONTROL TECHNOLOGY** means technology that will result in an emission standard, including a visible emission standard, based on the maximum degree of reduction which the Agency, on a case-by-case basis, taking into account energy, environmental, and economic impacts, and other costs, determines is achievable for such source through application of production processes, available methods, systems, and techniques, including fuel cleaning or treatment, clean fuels, or innovative fuel combustion techniques for control of each air contaminant. In no event shall application of the best available control technology result in emissions of any air contaminant that would exceed the emissions allowed by an applicable standard under 40 CFR parts 60, 61, and 63. The Agency may prescribe a design, equipment, work practice, or operational standard, or combination thereof, to meet the requirements of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means that achieve equivalent results.

(e) ~~(l) —~~ **BOARD** means the Board of Directors of the Puget Sound Clean Air Pollution Control Agency.

~~(m) —~~ **COMMENCED CONSTRUCTION** means that the owner or operator has all the necessary preconstruction approvals or permits and either has begun, or has caused to begin, a continuous program of actual on-site construction of the source or has entered into binding agreements or contractual obligations to undertake construction of the source which cannot be canceled or modified without substantial loss to the owner or operator.

- (f) ~~(h)~~ **COMBUSTIBLE REFUSE** means solid or liquid combustible waste material.
- (g) ~~(e)~~ **CONTROL EQUIPMENT** means any device which prevents or controls the emission of any air contaminant.
- (h) ~~(p)~~ **CONTROL OFFICER** means the Air Pollution Control Officer of the Puget Sound Clean Air ~~Pollution Control~~ Agency.
- (i) ~~(q)~~ **EMISSION** means a ~~direct or indirect~~ release of ~~any~~ air ~~contaminant~~contaminants into the ambient air.
- (j) ~~(r)~~ **EMISSION STANDARD** means a requirement established under the Federal Clean Air Act (FCAA) or chapter 70.94 RCW that 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 source to assure continuous emission reduction, and any design, equipment, work practice, or operational standard. ~~adopted under the FCAA or chapter 70.94 RCW.~~
- (k) ~~(s)~~ **EQUIPMENT or EMISSIONS UNIT** means any part of a stationary ~~or portable device~~ source or ~~any part thereof~~ source that emits or ~~may would have the potential to emit~~ any pollutant ~~air contaminant subject to regulation under the federal Clean Air Act, chapter 70.94 or 70.98 RCW~~ ~~into the atmosphere.~~
- ~~(t) **FACILITY** means the sum total of all of the pollutant emitting activities that belong to the same industrial grouping (as defined by major groups in the Standard Industrial Classification Manual, NTIS Order No. PB 87-100012), are located on one or more contiguous or adjacent properties, and are owned or operated by the same person or persons under common control.~~
- ~~(u) **FIRST STAGE OF IMPAIRED AIR QUALITY** means a condition declared by the Control Officer when particulates 10 microns and smaller in diameter are at an ambient level of 75 micrograms per cubic meter measured on a 24-hour average or when carbon monoxide is at an ambient level of 8 parts of contaminant per million parts of air by volume measured on an 8-hour average.~~
- (l) ~~(v)~~ **FUEL BURNING EQUIPMENT** means equipment that produces hot air, hot water, steam, or other heated fluids by external combustion of fuel.
- ~~(w) **FUGITIVE DUST** means particulate matter or any visible air contaminant other than uncombined water that is not collected by a capture system and emitted from a stack, but is released to the atmosphere at the point of generation.~~
- ~~(x) **FUGITIVE EMISSION** means an emission that does not pass and that could not reasonably pass through a stack, chimney, or other functionally equivalent opening.~~

(m) ~~(y)~~ **GASOLINE** ~~means a volatile organic compound having a true vapor pressure greater than 1.5 pounds per square inch at 68°F,~~means a petroleum distillate that is a liquid at standard conditions and has a true vapor pressure greater than 4 pounds per square inch absolute at 20°C, and is used as a fuel for internal combustion engines. Also any liquid sold as a vehicle fuel with a true vapor pressure greater than 4 pounds per square inch absolute at 20°C shall be considered "gasoline" for purpose of this regulation.

(n) ~~(z)~~ **GASOLINE STATION** means any site dispensing gasoline into ~~fuel tanks of motor vehicles~~vehicle, marine ~~vessels~~vessel, or aircraft fuel tanks from stationary storage tanks.

(o) **HAZARDOUS AIR POLLUTANT** means any air pollutant listed in or pursuant to section 112(b) of the federal Clean Air Act, 42 U.S.C. §7412.

~~(aa) **INCINERATOR** means a furnace for the destruction of waste.~~

~~(bb) **INSTALLATION** means the placement, assemblage, or construction of equipment or control equipment at the premises where the equipment or control equipment will be used, and includes all preparatory work at such premises.~~

~~(cc) **LOWEST ACHIEVABLE EMISSION RATE** means that rate of emissions that reflects either the most stringent emission standard that is contained in the implementation plan of any state for such class or category of source unless the owner or operator of the proposed source demonstrates that such emission standards are not achievable, or the most stringent emission standard that is achieved in practice by such class or category of source, whichever is more stringent.~~

~~(dd) **MAJOR MODIFICATION** means a modification of a major source that would increase the actual emissions of any air contaminant for which the area is designated non-attainment by more than the following:~~

AIR CONTAMINANT	TONS/YEAR
Carbon Monoxide	100.0
Volatile Organic Compounds	40.0
Nitrogen Oxides	40.0

PM-10	15.0
Sulfur Dioxide	40.0
Lead	-0.6

~~In determining whether the thresholds defining a major modification have been exceeded, the emissions permitted under Orders of Approval issued to the facility since the designation of non-attainment that were not major modifications, and all fugitive emission increases that can be reasonably quantified shall be included. Any emission reduction credits banked by the facility since the designation of nonattainment may be subtracted from this amount provided that any credits so applied are then considered to have been used. For modifications of an individual piece of equipment, the baseline shall be the source's actual emissions or allowable emissions, whichever is smaller. (Note: volatile organic compounds and nitrogen oxides are the air contaminants for which an area is designated nonattainment for ozone)~~

~~(cc) — MAJOR SOURCE means a facility that emits or has the potential to emit 100 tons per year or more of any air contaminant subject to regulation under the federal Clean Air Act. In determining whether the threshold defining a major source has been exceeded all fugitive emissions that can be reasonably quantified shall be included. Any emission reduction credits banked by the facility may be subtracted from this amount provided that any credits so applied are then considered to have been used.~~

~~(ff) — MODIFICATION means any physical change in, or change in the method of operation of, a source, except an increase in the hours of operation or production rates (not otherwise prohibited) or the use of an alternative fuel or raw material that the source is approved to use under an Order of Approval or operating permit, that increases the amount of any air contaminant emitted or that results in the emission of any air contaminant not previously emitted.~~

(p) ~~(gg)~~ — **MOTOR VEHICLE** means any operating vehicle or one capable of being operated that has its own self-contained sources of motive power, is designed for the transportation of people or property, and is of the type for which a license is required for operation on a highway.

(q) ~~(hh)~~ — **MULTIPLE CHAMBER INCINERATOR** means a furnace for the destruction of waste consisting of three or more refractory-lined combustion chambers in series, physically separated by refractory walls, interconnected by gas passage ports or ducts, and employing adequate design parameters necessary for maximum combustion of the material to be burned.

~~(ii) — NONATTAINMENT AREA means a geographic area designated by the~~

~~United States Environmental Protection Agency that violates a primary or secondary national ambient air quality standard.~~

~~(jj) — OUTDOOR FIRE means the combustion of material in the open or in a container with no provision for control of such combustion or the control of the emissions of the combustion products.~~

- (r) ~~(kk)~~ **OWNER** ~~OR~~ or **OPERATOR** means the person who owns, leases, supervises, or operates the equipment or control equipment.

~~(II) — PARTICULATE MATTER means any material, except water in an uncombined form, that is, has been, or is likely to become airborne and exists as a liquid or a solid at standard conditions.~~

- (s) ~~(mm)~~ **PERSON** ~~means and includes any~~ PERSON means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or ~~governmental~~ government agency.

~~(nn) — PM-10 means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on Appendix J of 40 CFR part 50 and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.~~

~~(oo) — POTENTIAL TO EMIT means the maximum capacity of a facility to emit an air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of the facility to emit an air contaminant, including control equipment and restrictions on the 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.~~

- (t) ~~(pp)~~ **REASONABLY AVAILABLE CONTROL TECHNOLOGY** or RACT means the lowest emission standard that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. ~~Reasonably available control technology~~ RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the 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 source or source category shall be adopted only after notice and opportunity for comment are afforded.

- (u) ~~(qq)~~ **REFUSE BURNING EQUIPMENT** means equipment employed to burn any solid or liquid combustible refuse.

~~(rr) — SEASONED WOOD means wood of any species that has been~~

~~sufficiently dried so as to contain 20% or less moisture by weight.~~

~~(ss) — SECOND STAGE OF IMPAIRED AIR QUALITY means a condition declared by the Control Officer when particulates 10 microns and smaller in diameter are at an ambient level of 105 micrograms per cubic meter measured on a 24-hour average.~~

~~(tt) — SOLID FUEL BURNING DEVICE means a device that burns wood, coal, or any other nongaseous or nonliquid fuels, and includes any device burning any solid fuel used for aesthetic or space heating purposes in a private residence or commercial establishment, which has a heat input less than 1 million Btu per hour.~~

- (v) ~~(uu)~~ **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 group 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 2-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 supplement. ~~a building, structure, equipment, control equipment, or facility that emits or may emit any air contaminant into the atmosphere.~~

~~(vv) — STANDARD CONDITIONS means a temperature of 68°F and a barometric pressure of 29.92 inches of mercury.~~

~~(ww) — TOTAL ALLOWABLE EMISSIONS means allowable emissions, including the emissions from all Orders of Approval issued to the facility since the designation of nonattainment that were not major modifications, and all fugitive emissions that can be reasonably quantified.~~

- (w) ~~(xx)~~ **TOXIC AIR CONTAMINANT POLLUTANT** ~~or (TAPC)~~ or “toxic air contaminant” means any toxic air pollutant listed in WAC 173-460-150. 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. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds. ~~an air contaminant listed in Appendix A of Registration III.~~

~~(yy) — TREATED WOOD means wood of any species that has been chemically impregnated, painted, or similarly modified.~~

- (x) **TRUE VAPOR PRESSURE** means the equilibrium partial pressure of ~~an~~ organica petroleum liquid ~~(as~~ determined by methods described in American Petroleum Institute Bulletin 2517, “Evaporation”Evaporative Loss from External Floating Roof Tanks”, ~~February 1989)~~, May 1996.

- (y) ~~(aaa)~~ **URBANIZED AREA** means those portions of King, Pierce, Kitsap, and Snohomish ~~Countries~~Counties designated as urbanized areas by the U.S. Department of Commerce, Bureau of the Census.
- (z) ~~(bbb)~~ **VOLATILE ORGANIC COMPOUND** or **VOC** means an organic compound that participates in atmospheric photochemical reactions as defined in 40 CFR 51.100(s) in effect as of the federal regulation reference date listed in Section 3.25 of this regulation herein incorporated by reference. ~~—This excludes all compounds determined to have negligible photochemical reactivity by the U.S. Environmental Protection Agency and listed in 40 CFR 51.100(s)~~

ARTICLE 2: STATE ENVIRONMENTAL POLICY ACT

SECTION 2.01 AUTHORITY Adopted 05/10/01 (943)

The Agency adopts this regulation under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA rules, WAC 197-11-904. This regulation contains this Agency's SEPA procedures and policies. The SEPA rules must be used in conjunction with this regulation. The SEPA rules mean chapter 197-11 of the Washington Administrative Code (WAC).

SECTION 2.02 ADOPTION BY REFERENCE Adopted 05/10/01 (943)

Revised 03/26/09 (1149), 09/26/13 (1283), 09/25/14 (1308)

For purposes of this regulation, the Agency adopts by reference the following sections of chapter 197-11 WAC, in effect as of May 10, 2014:

- 197-11-040 Definitions.
- 197-11-050 Lead agency.
- 197-11-055 Timing of the SEPA process.
- 197-11-060 Content of environmental review.
- 197-11-070 Limitations on actions during SEPA process.
- 197-11-080 Incomplete or unavailable information.
- 197-11-090 Supporting documents.
- 197-11-100 Information required of applicants.
- 197-11-250 SEPA/Model Toxics Control Act integration.
- 197-11-253 SEPA lead agency for MTCA actions.
- 197-11-256 Preliminary evaluation.
- 197-11-259 Determination of nonsignificance for MTCA remedial actions.
- 197-11-262 Determination of significance and EIS for MTCA remedial actions.
- 197-11-265 Early scoping for MTCA remedial actions.
- 197-11-268 MTCA interim actions.
- 197-11-300 Purpose of this part.
- 197-11-305 Categorical exemptions.
- 197-11-310 Threshold determination required.
- 197-11-315 Environmental checklist.
- 197-11-330 Threshold determination process.
- 197-11-335 Additional information.
- 197-11-340 Determination of nonsignificance(DNS).
- 197-11-350 Mitigated DNS.
- 197-11-360 Determination of significance (DS)/initiation of scoping.
- 197-11-390 Effect of threshold determination.
- 197-11-400 Purpose of EIS.
- 197-11-402 General requirements.
- 197-11-405 EIS types.
- 197-11-406 EIS timing.
- 197-11-408 Scoping.
- 197-11-410 Expanded scoping.
- 197-11-420 EIS preparation.
- 197-11-425 Style and size.
- 197-11-430 Format.

197-11-435	Cover letter or memo.
197-11-440	EIS contents.
197-11-442	Contents of EIS on nonproject proposals.
197-11-443	EIS contents when prior nonproject EIS.
197-11-444	Elements of the environment.
197-11-448	Relationship of EIS to other considerations.
197-11-450	Cost-benefit analysis.
197-11-455	Issuance of DEIS.
197-11-460	Issuance of FEIS.
197-11-500	Purpose of this part.
197-11-502	Inviting comment.
197-11-504	Availability and cost of environmental documents.
197-11-508	SEPA register.
197-11-510	Public notice.
197-11-535	Public hearings and meetings.
197-11-545	Effect of no comment.
197-11-550	Specificity of comments.
197-11-560	FEIS response to comments.
197-11-570	Consulted agency costs to assist lead agency.
197-11-600	When to use existing environmental documents.
197-11-610	Use of NEPA documents.
197-11-620	Supplemental environmental impact statement – Procedures.
197-11-625	Addenda – Procedures.
197-11-630	Adoption – Procedures.
197-11-635	Incorporation by reference – Procedures.
197-11-640	Combining documents.
197-11-650	Purpose of this part.
197-11-655	Implementation.
197-11-660	Substantive authority and mitigation.
197-11-680	Appeals.
197-11-700	Definitions.
197-11-702	Act.
197-11-704	Action.
197-11-706	Addendum.
197-11-708	Adoption.
197-11-710	Affected tribe.
197-11-712	Affecting.
197-11-714	Agency.
197-11-716	Applicant.
197-11-718	Built environment.
197-11-720	Categorical exemption.
197-11-722	Consolidated appeal.
197-11-724	Consulted agency.
197-11-726	Cost-benefit analysis.
197-11-728	County/city.
197-11-730	Decision maker.
197-11-732	Department.
197-11-734	Determination of nonsignificance (DNS).
197-11-736	Determination of significance (DS).

197-11-738	EIS.
197-11-740	Environment.
197-11-744	Environmental document.
197-11-746	Environmental review.
197-11-750	Expanded scoping.
197-11-752	Impacts.
197-11-754	Incorporation by reference.
197-11-756	Lands covered by water.
197-11-758	Lead agency.
197-11-760	License.
197-11-762	Local agency.
197-11-764	Major action.
197-11-766	Mitigated DNS.
197-11-768	Mitigation.
197-11-770	Natural environment.
197-11-772	NEPA.
197-11-774	Nonproject.
197-11-776	Phased review.
197-11-778	Preparation.
197-11-780	Private project.
197-11-782	Probable.
197-11-784	Proposal.
197-11-786	Reasonable alternative.
197-11-788	Responsible official.
197-11-790	SEPA.
197-11-792	Scope.
197-11-793	Scoping.
197-11-794	Significant.
197-11-796	State agency.
197-11-797	Threshold determination.
197-11-799	Underlying governmental action.
197-11-800	Categorical exemptions.
197-11-880	Emergencies.
197-11-890	Petitioning DOE to change exemptions.
197-11-900	Purpose of this part.
197-11-902	Agency SEPA policies.
197-11-916	Application to ongoing actions.
197-11-920	Agencies with environmental expertise.
197-11-922	Lead agency rules.
197-11-924	Determining the lead agency.
197-11-926	Lead agency for governmental proposals.
197-11-928	Lead agency for public and private proposals.
197-11-930	Lead agency for private projects with one agency with jurisdiction.
197-11-932	Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
197-11-934	Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
197-11-936	Lead agency for private projects requiring licenses from more than one state agency.

- 197-11-938 Lead agencies for specific proposals.
- 197-11-940 Transfer of lead agency status to a state agency.
- 197-11-942 Agreements on lead agency status.
- 197-11-944 Agreements on division of lead agency duties.
- 197-11-946 DOE resolution of lead agency disputes.
- 197-11-948 Assumption of lead agency status.
- 197-11-960 Environmental checklist.
- 197-11-965 Adoption notice.
- 197-11-970 Determination of nonsignificance (DNS).
- 197-11-980 Determination of significance and scoping notice (DS).
- 197-11-985 Notice of assumption of lead agency status.
- 197-11-990 Notice of action.

SECTION 2.03 DESIGNATION OF RESPONSIBLE OFFICIAL

Adopted 05/10/01 (943)

- (a) For proposals for which the Agency is the lead agency, the responsible official shall be the Control Officer or Agency employee designated by the Control Officer.
- (b) For all proposals for which the Agency is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the “lead agency” or “responsible official” by those sections of the SEPA rules adopted by reference in Section 2.02 of this regulation.
- (c) The Agency shall retain all documents required by the SEPA rules (chapter 197-11 WAC) and make them available in accordance with chapter 42.17 RCW.

SECTION 2.04 LEAD AGENCY DETERMINATION AND RESPONSIBILITIES

Adopted 05/10/01 (943)

- (a) When the Agency receives an application for or initiates a proposal that involves a nonexempt action, the Agency shall determine the lead agency for that proposal under WAC 197-11-050, 197-11-253, and 197-11-922 through 197-11-940; unless the lead agency has been previously determined or the Agency is aware that another agency is in the process of determining the lead agency. When the Agency is the lead agency for a proposal, the responsible official shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.
- (b) When the Agency is not the lead agency for a proposal, the Agency shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. The Agency shall not prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the Agency may conduct supplemental environmental review under WAC 197-11-600.
- (c) If the Agency receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-253 or 197-11-922

through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within 15 days of receipt of the determination, or the Agency must petition the Department of Ecology for a lead agency determination under WAC 197-11-946 within the 15-day time period. Any such petition on behalf of the Agency may be initiated by the Control Officer.

- (d) The Agency may make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944.
- (e) When the Agency makes a lead agency determination for a private project, the Agency shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal.

SECTION 2.05 USE OF EXEMPTIONS Adopted 05/10/01 (943)

- (a) When the Agency receives an application for a permit or, in the case of governmental proposals, the Agency initiates the proposal, the Agency shall determine whether the permit and/or the proposal is exempt. The Agency's determination that a permit or proposal is exempt shall be final and not subject to administrative review. If a permit or proposal is exempt, none of the procedural requirements of this regulation apply to the proposal. The Agency shall not require completion of an environmental checklist for an exempt permit or proposal.
- (b) In determining whether or not a proposal is exempt, the Agency shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the Agency shall determine the lead agency, even if the license application that triggers the Agency's consideration is exempt.
- (c) If a proposal includes both exempt and nonexempt actions, the Agency may authorize exempt actions prior to compliance with the procedural requirements of this regulation, except that:
 - (1) The Agency shall not give authorization for:
 - (A) Any nonexempt action;
 - (B) Any action that would have an adverse environmental impact; or
 - (C) Any action that would limit the choice of alternatives.
 - (2) The Agency may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and
 - (3) The Agency may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

SECTION 2.06 ENVIRONMENTAL CHECKLIST Adopted 05/10/01 (943)

Revised 03/26/09 (1149)

- (a) A completed environmental checklist (or a copy) shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this regulation; except, a checklist is not needed if the Agency and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The environmental checklist shall be in the form provided in WAC 197-11-960, except that Section B.2.a. Air, of the checklist shall state: "What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke, greenhouse gases) during construction and when the project is completed? If any, generally describe and give approximate quantities, if known." As used throughout this regulation, environmental checklist means the environmental checklist required by this section.
- (b) The Agency shall use the environmental checklist to determine the lead agency and, if the Agency is the lead agency, for determining the responsible official and for making the threshold determination.
- (c) For private proposals, the Agency will require the applicant to complete the environmental checklist, providing assistance as necessary. For Agency proposals, the Agency shall complete the environmental checklist. The Agency may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs:
 - (1) The Agency has technical information on a question or questions that is unavailable to the private applicant; or
 - (2) The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

SECTION 2.07 MITIGATED DNS Adopted 05/10/01 (943)

- (a) As provided in this section and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.
- (b) An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. "Early notice" means the Agency's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal. The request must:
 - (1) Follow submission of a complete permit application and environmental checklist for a nonexempt proposal for which the Agency is lead agency; and
 - (2) Precede the Agency's actual threshold determination for the proposal.
- (c) The responsible official shall respond to the request for early notice within 30 working days. The response shall:
 - (1) Be written;

- (2) State whether the Agency currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the Agency to consider a DS; and
 - (3) State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.
- (d) As much as possible, the Agency should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.
 - (e) When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the Agency shall base its threshold determination on the changed or clarified proposal and shall make the determination within 15 days of receiving the changed or clarified proposal:
 - (1) If the Agency indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the Agency shall issue and circulate a DNS under WAC 197-11-340(2).
 - (2) If the Agency indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the Agency shall make the threshold determination, issuing a DNS or DS as appropriate.
 - (3) The applicant's proposed mitigation measures (clarifications, changes, or conditions) must be in writing and must be specific.
 - (4) Mitigation measures that justify issuance of a mitigated DNS may be incorporated in the DNS by reference to Agency staff reports, studies, or other documents
 - (f) Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the Agency.
 - (g) If the Agency's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the Agency should evaluate the threshold determination to ensure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).
 - (h) The Agency's written response under Section 2.07(c) of this regulation shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the Agency to consider the clarifications or changes in its threshold determination.

SECTION 2.08 PREPARATIONS OF EIS – ADDITIONAL CONSIDERATIONS

Adopted 05/10/01 (943)

- (a) Preparing a draft and final EIS (DEIS and FEIS) and draft and final supplemental EIS (SEIS) is the responsibility of the responsible official. Before the Agency issues an EIS, the responsible official shall be satisfied that it

complies with this regulation and chapter 197-11 WAC.

- (b) The DEIS and FEIS or draft and final SEIS shall be prepared by Agency staff or by a consultant selected by the Agency. The Agency retains sole authority to select persons or firms to author, co-author, provide special services, or otherwise participate in preparing required environmental documents. If the responsible official requires an EIS for a proposal and determines that someone other than the Agency will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the Agency's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.
- (c) The Agency may require an applicant to provide information the Agency does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this regulation or that is being requested from another agency. (This does not apply to information the Agency may request under another regulation or statute.)

SECTION 2.09 ADDITIONAL ELEMENTS TO BE COVERED IN AN EIS

Adopted 05/10/01 (943)

The following additional elements are part of the environment for the purpose of EIS content, but do not add to the criteria for threshold determination or perform any other function or purpose under this regulation:

- (a) Economy
- (b) Social policy analysis
- (c) Cost-benefit analysis

SECTION 2.10 PUBLIC NOTICE

Adopted 05/10/01 (943)

- (a) Whenever the Agency issues a DNS under WAC 197-11-340(b) or a DS under WAC 197-11-360(c), the Agency shall give public notice as follows:
 - (1) If public notice is required for a nonexempt license, the notice shall state whether a DS or DNS has been issued and when comments are due.
 - (2) If no public notice is required for the permit or approval, the Agency shall give notice of the DNS or DS by:
 - (A) Notifying public or private groups that have expressed interest in a certain proposal or in the type of proposal being considered, and
 - (B) Posting notice on the Agency website.
 - (3) Whenever the Agency issues a DS under WAC 197-11-360(3), the Agency shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.
- (b) Whenever the Agency issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:

- (1) Indicating the availability of the DEIS in any public notice required for a nonexempt license; and at least one of the following methods:
 - (2) Posting the property, for site-specific proposals;
 - (3) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;
 - (4) Notifying public or private groups that have expressed interest in a certain proposal or in the type of proposal being considered;
 - (5) Notifying the news media;
 - (6) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals;
 - (7) Publishing notice in Agency newsletters and/or sending notice to Agency mailing lists (general lists or specific lists for proposals or subject areas); and/or
 - (8) Posting notice on the Agency website.
- (c) Whenever possible, the Agency shall integrate the public notice required under this section with existing notice procedures for the Agency's nonexempt permit(s) or approval(s) required for the proposal.
- (d) The Agency may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense.

SECTION 2.11 DESIGNATION OF OFFICIAL TO PERFORM CONSULTED AGENCY RESPONSIBILITIES FOR THE AGENCY

Adopted 05/10/01 (943)

- (a) The Control Officer shall be responsible for preparing written comments for the Agency in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.
- (b) The Control Officer shall be responsible for the Agency's compliance with WAC 197-11-550 whenever the Agency is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from the Agency.

SECTION 2.12 SEPA SUBSTANTIVE AUTHORITY Adopted 05/10/01 (943)

- (a) The policies and goals set forth in this section supplement those in the existing authority of the Agency.
- (b) Any governmental action on public or private proposals that are not exempt may be conditioned or denied under SEPA to mitigate the environmental impact, subject to the following limitations:
 - (1) Mitigation measures or denials shall be based on policies, plans, rules, or regulations designated in this article as a basis for the exercise of substantive authority and in effect when the DNS or DEIS is issued. The responsible official shall cite the Agency's SEPA policy that is the basis of

any condition or denial under this regulation (for proposals of applicants).

- (2) Mitigation measures shall be related to specific, adverse environmental impacts clearly identified in an environmental document on the proposal and shall be stated in writing by the responsible official. Such document may be the permit itself, or may be combined with other Agency documents, or may reference relevant portions of environmental documents.
- (3) Mitigation measures shall be reasonable and capable of being accomplished.
- (4) Responsibility for implementing mitigation measures may be imposed upon an applicant only to the extent attributable to the identified adverse impacts of its proposal. Voluntary additional mitigation may occur.
- (5) The Agency shall consider whether local, state, or federal requirements and enforcement would mitigate an identified significant impact.
- (6) To deny a proposal under SEPA, the Agency must find that:
 - (A) The proposal would be likely to result in significant adverse environmental impacts identified in a final or supplemental EIS prepared pursuant to this regulation; and
 - (B) Reasonable mitigation measures are insufficient to mitigate the identified impact.
- (c) The Agency designates and adopts by reference the following policies, plans, rules, and regulations as the potential bases for the Agency's exercise of substantive authority under SEPA, pursuant to this section:
 - (1) The Agency shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:
 - (A) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
 - (B) Ensure for all people of Washington, safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
 - (C) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
 - (D) Preserve important historic, cultural, and natural aspects of our national heritage;
 - (E) Maintain, wherever possible, an environment that supports diversity and variety of individual choice;
 - (F) Achieve a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities; and
 - (G) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

- (2) The Agency recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.
- (3) The Agency adopts by reference the policies in the following laws and Agency resolutions, regulations, and plans:
 - (A) Federal and state Clean Air Acts, and regulations adopted thereunder.
 - (B) Agency Regulations I, II, and III.
 - (C) Resolutions adopted by the Agency Board of Directors.
 - (D) Maintenance plans.
 - (E) Washington State Implementation Plan.
 - (F) Final Report of the Agency PM_{2.5} Stakeholder Group, dated October 15, 1999.
- (4) The Agency establishes the following additional policies:
 - (A) Air quality
 - (i) Policy Background
 - (a) Air pollution can be damaging to human health, plants and animals, visibility, aesthetics, and the overall quality of life.
 - (b) The Agency is responsible for monitoring air quality in the Puget Sound area, setting standards, and regulating development to achieve regional air quality standards.
 - (c) Federal, state, and regional regulations and programs cannot always anticipate or adequately mitigate adverse air quality impacts.
 - (ii) Policies
 - (a) To minimize or prevent adverse air quality impacts.
 - (b) To secure and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and to property, foster the comfort and convenience of its inhabitants, seek public participation in policy planning and implementation, promote the economic and social development of the Puget Sound area, and facilitate the enjoyment of the natural attractions of the Puget Sound area.
 - (c) To eliminate emissions of ozone-depleting chloro-fluorocarbons, in the interests of national and global environmental protection; and to consider energy efficiency and conservation to reduce greenhouse gases.
 - (d) To reduce woodstove emissions by educating the public about the effects of woodstove emissions, other heating alternatives, and the desirability of achieving better emission performance and heating efficiency from woodstoves pursuant to standards adopted by the Department of

Ecology; and to encourage replacing uncertified woodstoves with cleaner sources of heat.

- (e) To reduce outdoor burning to the greatest extent practical.
- (f) To develop and adopt strategies for effectively reducing or eliminating impacts from toxic air contaminants.
- (g) To control volatile organic compound (VOC) emissions in order to maintain the National Ambient Air Quality Standard for ozone.
- (h) If the responsible official makes a written finding that the applicable federal, state, and/or regional regulations did not anticipate or are inadequate to address the particular impact(s) of a project, the responsible official may condition or deny the proposal to mitigate its adverse impacts.

(B) Land Use

(i) Policy background

- (a) Adverse land use impacts may result when a proposed project or land use policy includes uses that may be consistent with applicable zoning requirements but inconsistent with air quality regulations.
- (b) Adverse cumulative land use impacts may result when particular uses permitted under the zoning code occur in an area to such an extent that they expose sensitive populations to air quality related health and environmental adverse impacts.

(ii) Policies

- (a) To ensure that proposed uses in projects are reasonably compatible with surrounding uses and are consistent with applicable air quality regulations.
- (b) To reduce regional air pollution emissions associated with land uses by promoting clean alternative forms of domestic use fuels, including natural gas, in new single and multifamily housing developments within urban growth areas. In addition, to discourage wood as a source of heat for residential development in low-lying areas susceptible to pollution accumulations.
- (c) To encourage municipal curbside solid and yard waste collection services at reasonable costs.

(C) Transportation

(i) Policy Background

- (a) Excessive traffic can adversely affect regional air quality.
- (b) Substantial traffic volumes associated with major projects may adversely impact air quality in surrounding areas.

(ii) Policies

- (a) To minimize or prevent adverse traffic impacts that would undermine the air quality of a neighborhood or surrounding areas.
- (b) To promote transportation demand and systems management actions designed to reduce vehicle emissions by reducing the use of single occupancy vehicles, reducing traffic congestion, and increasing public transportation services.
- (c) To encourage integrating land use and transportation planning.
- (d) To emphasize the importance of air quality conformity determinations required for proposed transportation plans, programs, and projects.
- (e) To pursue and support alternative and clean fuels projects and programs.
- (f) To promote and support land use plans and projects designed to reduce vehicle emissions by reducing the use of single occupant vehicles, number of vehicle miles traveled, and traffic congestion; and supporting the use of public transportation.
- (g) In determining the necessary air quality impact mitigation, the responsible official will examine the mitigation proposed by the local jurisdiction.

(D) Cumulative Effects

- (i) The analysis of cumulative effects shall include a reasonable assessment of:
 - (a) The capacity of natural systems, such as air, water, light, and land, to absorb the direct and reasonably anticipated indirect impacts of the proposal, and
 - (b) The demand upon facilities, services, and natural systems of present, simultaneous, and known future development in the area of the project or action.
- (ii) An action or project may be conditioned or denied to lessen or eliminate its cumulative effects on the environment:
 - (a) When considered together with prior, simultaneous, or induced future development; or
 - (b) When, taking into account known future development under established zoning or other regulations, it is determined that a project will use more than its share of present and planned facilities, services, and natural systems.

SECTION 2.13 NOTICE/STATUTE OF LIMITATIONS Adopted 05/10/01 (943)

- (a) The Agency, applicant for, or proponent of an action may publish a notice of

action pursuant to RCW 43.21C.080 for any action.

- (b) The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the city clerk or county auditor, applicant, or proponent pursuant to RCW 43.21C.080.

SECTION 2.14 FEES Adopted 05/10/01 (943)

In addition to the fees set forth in Article 6, the following fees apply:

- (a) **Threshold Determination**

The Agency may contract directly with a consultant for preparation of an environmental checklist or other information needed for the Agency to make a threshold determination, and may bill such costs and expenses directly to the applicant. The Agency may require the applicant to post bond or otherwise ensure payment of such costs and expenses. In addition, the Agency may charge and collect a reasonable fee from any applicant to cover the costs incurred by the Agency in preparing an environmental checklist or other information needed for the Agency to make a threshold determination.

- (b) **Environmental Impact Statement**

- (1) When the Agency is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the Agency, the Agency may charge and collect a reasonable fee from any applicant to cover costs incurred by the Agency in preparing the EIS. The responsible official shall advise the applicant(s) of the projected costs for the EIS prior to actual preparation; the applicant shall post bond or otherwise ensure payment of such costs.
 - (2) The responsible official may determine that the Agency will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than the Agency and may bill such costs and expenses directly to the applicant. The Agency may require the applicant to post bond or otherwise ensure payment of such costs.
 - (3) If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under Section 2.14(a) or (b) of this regulation that remain after incurred costs are paid.
- (c) The Agency may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this regulation relating to the applicant's proposal.
- (d) The Agency shall not collect a fee for performing its duties as a consulted agency, except as provided in WAC 197-11-570.
- (e) The Agency may charge any person for copies of any document prepared under this ordinance, and for mailing the document, in a manner provided by chapter 42.17 RCW.

~~REGULATION I~~ **ARTICLE 3: GENERAL PROVISIONS**

SECTION 3.01 DUTIES AND POWERS OF THE CONTROL OFFICER

Adopted 03/13/68 (12)

Revised 08/08/91 (702), 02/10/94 (777), 09/09/99 (895)

Pursuant to the provisions of the "Washington Clean Air Act" (Chapter 70.94 RCW), the Board has appointed a Control Officer whose sole responsibility is to observe and enforce the provisions of the Act and all orders, rules, and regulations pursuant thereto, including but not limited to Regulations I, II, and III of the Puget Sound Clean Air Agency. The Control Officer is empowered by the Board to sign official complaints, issue citations, initiate court suits, or use other legal means to enforce the provisions of the Act.

SECTION 3.02 MEETINGS OF THE BOARD OF DIRECTORS

Adopted 09/10/98 (870), Revised 06/14/01 (946), 09/27/07 (1106)

- (a) **Regular Meetings.** The Agency Board of Directors shall meet at least ten (10) times per year. All Board of Director meetings are open to the public. Regular meetings of the Board are usually held on the fourth Thursday of each month at the Agency's offices. The Agency's offices are located at 1904 3rd Avenue, Suite 105, Seattle, WA 98101-3317. The Agency may be reached by telephone at (206) 343-8800 or 1-800-552-3565, or by facsimile at (206) 343-7522.

Notice of the meetings shall be published in the State Register, as well as in the local newspapers of general circulation of the largest city within each member county. The notices shall state the time, date, and place of each meeting. Notice shall be provided at least ten (10) days prior to each meeting. The agenda for any meeting may be obtained from the Agency's website or by contacting the Agency directly.

During any meeting, the Board may retire to Executive Session, at which time all members of the public shall be excluded from the meeting.

Written communications to the Board or individual Board members may be made by contacting the Agency at the above address and facsimile number.

- (b) **Special Meetings.** The Chair or majority of the members of the Board may call a special meeting at any time. Notice of such meetings shall be provided as required by the Open Public Meetings Act, chapter 42.30 RCW.
- (c) **Public Records.** All minutes and records of all regular and special Board meetings, including written communications provided to the Board, shall be available for public inspection and copying as provided in the Public Disclosure Law, chapter 42.17 RCW. Any person wishing to review or copy such records should contact the Agency's records administrator.

SECTION 3.03 GENERAL REGULATORY ORDERS Adopted 06/13/96 (832)
Revised 09/11/97 (856), 03/11/99 (882), 09/09/99 (895), 05/22/03 (992), 12/15/11 (1231)

- (a) **Purpose.** The Board may, by regulatory order, apply to a specific source or sources any applicable provision of chapter 70.94 RCW or the rules adopted thereunder. In addition, federally enforceable regulatory orders that limit the potential to emit any air contaminant(s) pursuant to WAC 173-400-091 and modifications to such orders are issued under Section 3.03(f) of this regulation.
- (b) **Public Involvement Process.** The Board may issue a regulatory order after the following public involvement process has been completed:
 - (1) Public notice of the proposed regulatory order shall be published in a newspaper of general circulation in the area where the source that is the subject of the order is located. Notice shall also be sent to the U.S. Environmental Protection Agency Regional Administrator. The public notice shall include, at a minimum, the following information:
 - (A) The name and address of the owner or operator and the source;
 - (B) A brief description of the purpose of the proposed regulatory order and the requirements included in the proposed regulatory order;
 - (C) The deadline for submitting written comments to the Agency; and
 - (D) The opportunity for a public hearing if the Agency determines that there is significant public interest in the proposed regulatory order.
 - (2) The initial public comment period shall be at least 30 days.
 - (3) During the initial 30-day public comment period, any person may request a public hearing be held. Any such request shall be submitted in writing to the Agency, shall indicate the interest of the entity filing it, and describe why a hearing is warranted. The Agency may, at its discretion, hold a public hearing if it determines significant public interest exists. Any such hearing shall be held before a hearing officer and upon such notice and at a time and place as the Agency deems reasonable. The hearing officer shall hear testimony at the public hearing and prepare a written summary of the testimony received at the hearing. The Agency shall provide at least 30 days prior notice of any hearing. If a public hearing is held, the public comment period shall extend through the hearing date.
- (c) **Board Action.** The Board shall only issue a regulatory order under this section after:
 - (1) The public comment period has ended;
 - (2) Any public hearing scheduled has been held; and
 - (3) The Board has considered all information and data related to the proposed regulatory order received by the Agency, including all written comments received and any summary of testimony prepared by the hearing officer.

The Board shall take action on a proposed regulatory order at a Board meeting. Unless otherwise ordered by the Board, a regulatory order issued under this section shall be effective on the date the Board approves the regulatory order.

- (d) **Appeals.** Regulatory orders issued by the Board under this section may be appealed to the Pollution Control Hearings Board pursuant to Section 3.17 of Regulation I and RCW 43.21B.310.
- (e) **Fees.** When a regulatory order is requested by an applicant, the Agency shall assess a fee of \$4,000 to cover the costs of processing and issuing a regulatory order under this section. The Agency shall also assess a fee equal to the cost of providing public notice in accordance with Section 3.03(b) of this regulation. These fees shall be due and payable within 30 days of the date of the invoice and shall be deemed delinquent if not fully paid within 90 days of the invoice.
- (f) When an applicant requests a federally enforceable regulatory order to limit the potential to emit any air contaminant or contaminants pursuant to WAC 173-400-091, or requests a modification to such an order, the Control Officer or a duly authorized representative may issue such order consistent with the requirements of WAC 173-400-091 and 173-400-171 and Section 3.03(e) above. Regulatory orders issued pursuant to this section are effective the day the Control Officer or representative approves the order and may be appealed to the Pollution Control Hearings Board pursuant to Section 3.17 of Regulation I and RCW 43.21B.310.

SECTION 3.04 REASONABLY AVAILABLE CONTROL TECHNOLOGY

Adopted 09/11/97 (856)

Revised 03/11/99 (882), 03/25/04 (1024), 05/24/12 (1241)

- (a) Reasonably Available Control Technology (RACT) is required for all existing sources.
- (b) RACT for each source category containing 3 or more sources shall be determined by rule by the Department of Ecology or the Agency, except as provided in Section 3.04(c) of this regulation.
- (c) Source-specific RACT determinations may be performed under any of the following circumstances:
 - (1) For replacement of existing control equipment under ~~Section~~Article 6.07(e)(4) of this regulation;
 - (2) When required by the federal Clean Air Act;
 - (3) For sources in source categories containing fewer than 3 sources;

- (4) When an air quality problem, for which the source is a contributor, justifies a source-specific RACT determination prior to development of a categorical RACT rule; or
- (5) When a source-specific RACT determination is needed to address either specific air quality problems, for which the source is a significant contributor, or source-specific economic concerns.
- (d) ~~Under any of the circumstances listed in Section 3.04(c) of this regulation, the~~ The Control Officer or a duly authorized representative shall have the authority to perform a ~~source-specific RACT analysis~~ RACT determination; to hire a consultant to perform relevant RACT analyses in whole or in part; or to order the owner or operator to perform ~~the analysis~~ RACT analyses and submit the results to the Agency.
- (e) ~~In the event that the Agency performs a source-specific RACT analysis of a source, the Agency~~ The Agency shall assess a fee ~~against that source to be paid by any source included or covered in a RACT determination to cover the cost of performing the analysis.~~ direct and indirect costs of developing, establishing or reviewing categorical or source-specific RACT determinations. The fee for ~~an analysis performed by the Agency~~ RACT determinations shall be \$5,000.00. ~~(Replacement of control equipment under Section 3.04(c)(1) 150 an hour. For categorical RACT determinations, the amount of the fees to be paid by a source shall be subject to the notice of construction review fees under Section 6.04, in lieu of a RACT fee under this section.) This fee~~ not exceed a source's pro rata portion as determined by the Agency. In addition, where the Agency hires a consultant to prepare RACT analyses, in whole or in part, pursuant to Section 3.04(d), the source shall be responsible for the consultant's fees. Fees shall be due and payable within 30 days of the date of the invoice and shall be deemed delinquent if not fully paid within 90 days of the invoice.
- (f) Where current controls are determined to be less than RACT, the Agency shall define RACT for that source or source category and issue a rule or a regulatory order under Section 3.03 of this regulation requiring the installation of RACT.
- (g) Emission standards and other requirements contained in rules or regulatory orders in effect at the time of operating permit issuance shall be considered RACT for purposes of permit issuance or renewal.
- (h) Replacement of control equipment under Section 3.04(c)(1) shall be subject to the notice of construction review fees under Section 6.04, in lieu of RACT fees under this section.

SECTION 3.05 INVESTIGATIONS BY THE CONTROL OFFICER

Adopted 03/13/68 (12) Revised 12/09/82 (531), 02/13/86 (597), 11/12/87 (616), 08/08/91 (702), 02/10/94 (777)

- (a) For the purpose of investigating conditions specific to the control, recovery, or release of air contaminants into the atmosphere, the Control Officer or a duly authorized representative shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing two families or less. No person shall refuse access to the Control Officer or a duly authorized representative who requests entry for the purpose of inspection, and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection.
- (b) For the purpose of determining compliance with an emission standard, the Control Officer or a duly authorized representative shall have the authority to conduct testing of a source or to order the owner or operator of the source to have it tested and to report the results to the Agency. In the event the Agency conducts the test, the Agency shall provide the owner or operator an opportunity to observe the sampling and to obtain a sample at the same time.

SECTION 3.06 CREDIBLE EVIDENCE Adopted 10/08/98 (872)

For the purpose of establishing whether or not a person has violated or is in violation of any provision of chapter 70.94 RCW, any rule enacted pursuant to that chapter, or any permit or order issued thereunder, nothing in this regulation shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test procedures or methods had been performed.

SECTION 3.07 COMPLIANCE TESTS Adopted 02/10/94 (777) Revised

02/09/95 (813), [03/23/06 \(1063\)](#)

- a) Testing of sources for compliance with emission standards shall be performed in accordance with current U.S. Environmental Protection Agency approved methods unless specific methods have been adopted by the Board. Where there is no federally approved or Board approved method, testing shall be performed in accordance with a method approved in writing by the Control Officer.
- ~~b)~~ The owner or operator of a source shall notify the Agency in writing at least ~~two weeks~~ 21 days prior to any compliance test and ~~provide the Agency an opportunity to review the test plan and to observe the test~~ Notification of a compliance test shall be submitted on forms provided by the Agency. Test notifications using the Agency forms do not constitute test plans. Compliance with this notification provision does not satisfy any obligation found in an order or other regulatory requirement to submit a test plan for Agency review. Notification under Section 3.07(b) of this regulation does not waive or modify test notification requirements found in other applicable regulations.
- ~~b)c)~~ The owner or operator of any source required to perform a compliance test shall submit a report to the Agency no later than 60 days after the test. The report shall include:

- (1) A description of the source and the sampling location;
- (2) The time and date of the test;
- (3) A summary of results, reported in units and for averaging periods consistent with the applicable emission standard;
- (4) A description of the test methods and quality assurance procedures employed;
- (5) The amount of fuel burned or raw material processed by the source during the test;
- (6) The operating parameters of the source and control equipment during the test;
- (7) Field data and example calculations; and
- (8) A statement signed by the senior management official of the testing firm certifying the validity of the source test report.

SECTION 3.09 VIOLATIONS – NOTICE Adopted 03/13/68 (12) Revised 11/10/71 (135), 11/12/87 (616), 08/08/91 (702)

- (a) At least 30 days prior to the commencement of any formal enforcement action under RCW 70.94.430 or 70.94.431, the Board or Control Officer shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the provisions of Chapter 70.94 RCW or the orders, rules, or regulations adopted pursuant thereto, alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order directing that necessary corrective action be taken within a reasonable time. In lieu of an order, the Board or the Control Officer may require that the alleged violator or violators appear before the Board for a hearing. Every notice of violation shall offer to the alleged violator an opportunity to meet with the Agency prior to the commencement of enforcement action.
- (b) Each act of commission or omission which procures, aids, or abets in the violation shall be considered a violation and be subject to the same penalty.
- (c) In case of a continuing violation, whether or not knowingly committed, each day's continuance shall be a separate and distinct violation.

SECTION 3.11 CIVIL PENALTIES Adopted 07/09/69 (25)

Revised 11/10/71 (135), 05/10/84 (556), 11/12/87 (616), Revised/Renumbered 08/08/91 (702), Revised 09/10/92 (734), 07/08/93 (756), 09/08/94 (798), 09/14/95 (821), 09/12/96 (839), 09/11/97 (856), 09/10/98 (870), 09/09/99 (895), 07/13/00 (925), 09/13/01 (954), 09/26/02 (978), [09/25/03 \(1009\)](#), [09/23/04 \(1036\)](#), [09/22/05 \(1055\)](#), [10/26/06 \(1082\)](#), [09/27/07 \(1106\)](#), [09/25/08 \(1131\)](#), [09/24/09 \(1170\)](#), [09/23/10 \(1196\)](#), [09/22/11 \(1222\)](#), [09/27/12 \(1253\)](#), [09/26/13 \(1284\)](#), [09/25/14 \(1309\)](#), [09/24/15 \(1328\)](#), [09/22/16 \(1350\)](#), [9/28/17 \(1371\)](#)

- (a) Any person who violates any of the provisions of chapter 70.94 RCW or any of the rules or regulations in force pursuant thereto, may incur a civil penalty in an amount not to exceed ~~\$13,977.00~~ [\\$19,609.00](#), per day for each violation.
- (b) Any person who fails to take action as specified by an order issued pursuant to chapter 70.94 RCW or Regulations I, II, and III of the Puget Sound Clean Air Agency shall be liable for a civil penalty of not more than ~~\$13,977.00~~ [\\$19,609.00](#), for each day of continued noncompliance.

(c) Within 30 days of the date of receipt of a Notice and Order of Civil Penalty, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. To be considered timely, a mitigation request must be actually received by the Agency, during regular office hours, within 30 days of the date of receipt of a Notice and Order of Civil Penalty. This time period shall be calculated by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or legal holiday, and then it is excluded and the next succeeding day that is not a Saturday, Sunday, or legal holiday is included. The date stamped by the Agency on the mitigation request is prima facie evidence of the date the Agency received the request.

(d) ~~Any such~~ A mitigation request must contain the following:

- (1) The name, mailing address, telephone number, and telefacsimile number (if available) of the ~~appealing~~ party requesting mitigation;
- (2) A copy of the Notice and Order of Civil Penalty involved ~~appealed from~~;
- (3) A short and plain statement showing the grounds upon which the ~~appealing~~ party requesting mitigation considers such order to be unjust or unlawful;
- (4) A clear and concise statement of facts upon which the ~~appealing~~ party requesting mitigation relies to sustain his or her grounds for ~~appeal~~ mitigation;
- (5) The relief sought, including the specific nature and extent; and
- (6) A statement that the ~~appealing~~ party requesting mitigation has read the ~~notice of appeal~~ mitigation request and believes the contents to be true, followed by the party's signature.

~~Upon receipt of the application, t~~ The Control Officer shall remit or mitigate the penalty only upon a demonstration by the requestor of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(e) Any civil penalty may also be appealed to the Pollution Control Hearings Board pursuant to chapter 43.21B RCW and chapter 371-08 WAC ~~if the appeal is. An appeal must be~~ filed with the Hearings Board and served on the Agency within 30 days ~~after receipt by the person penalized of the notice imposing the penalty or 30 days after receipt of the~~ of the date of receipt of the Notice and Order of Civil Penalty or the notice of disposition on the application for relief from penalty.

~~(b)~~(f) A civil penalty shall become due and payable on the later of:

- (1) 30 days after receipt of the notice imposing the penalty;
- (2) 30 days after receipt of the notice of disposition on application for relief from penalty, if such application is made; or
- (3) 30 days after receipt of the notice of decision of the Hearings Board if the penalty is appealed.

~~(e)~~(g) If the amount of the civil penalty is not paid to the Agency within 30 days

after it becomes due and payable, the Agency may bring action to recover the penalty in King County Superior Court or in the superior court of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

~~(d)~~(h) Civil penalties incurred but not paid shall accrue interest beginning on the 91st day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the 31st day following final resolution of the appeal.

~~(e)~~(i) To secure the penalty incurred under this section, the Agency shall have a lien on any vessel used or operated in violation of Regulations I, II, and III which shall be enforced as provided in RCW 60.36.050.

SECTION 3.13 CRIMINAL PENALTIES Adopted 03/13/68 (12) Revised 10/10/73 (214), 05/10/84 (556), Revised/Renumbered 08/08/91 (702)

- (a) Any person who knowingly violates any of the provisions of Chapter 70.94 RCW or any rules or regulations in force pursuant thereto, shall be guilty of a crime and upon conviction thereof, shall be punished by a fine of not more than \$10,000.00, or by imprisonment in the county jail for not more than 1 year, or by both for each separate violation.
- (b) Any person who negligently releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm shall be guilty of a crime and shall, upon conviction, be punished by a fine of not more than \$10,000.00, or by imprisonment for not more than 1 year, or both.
- (c) Any person who knowingly releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, shall be guilty of a crime and shall, upon conviction, be punished by a fine of not less than \$50,000.00, or by imprisonment for not more than 5 years, or both.

SECTION 3.15 ADDITIONAL ENFORCEMENT Adopted 03/13/68 (12) Revised/Renumbered 08/08/91 (702)

- (a) Notwithstanding the existence or use of any other remedy, whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of Chapter 70.94 RCW, or any order, rule, or regulation issued by the Board or the Control Officer or a duly authorized agent, the Board, after notice to such person and an opportunity to comply, may petition the superior court of the county wherein the violation

is alleged to be occurring or to have occurred for a restraining order or a temporary or permanent injunction or another appropriate order.

- (b) As an additional means of enforcement, the Board or Control Officer may accept an assurance of discontinuance of any act or practice deemed in violation of Chapter 70.94 RCW or of any order, rule, or regulation adopted pursuant thereto, from any person engaging in, or who has engaged in, such act or practice. Any such assurance shall specify a time limit during which such discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of this chapter or the orders, rules, or regulations issued pursuant thereto, which make the alleged act or practice unlawful for the purpose of securing any injunction or other relief from the superior court.

SECTION 3.17 APPEAL OF ORDERS Adopted 03/13/68 (12)

Revised 07/09/69 (25), 11/10/71 (135), 11/12/87 (616), Revised/Renumbered 08/08/91 (702), Revised 10/08/98 (872)

- (a) Any order of the Board or Control Officer may be appealed to the Pollution Control Hearings Board if the appeal is filed with the Hearings Board and served on the Agency within 30 days after receipt of the order. This is the exclusive means of appeal of such an order.
- (b) 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 Hearings Board, the appellant may apply to the Hearings Board pursuant to chapter 43.21B RCW and chapter 371-08 WAC for a stay of the order or for the removal thereof.
- (c) Upon failure to comply with any final order of the Board or Control Officer, the attorney for the Agency, 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.

SECTION 3.19 CONFIDENTIAL INFORMATION Adopted 03/13/68 (12)

Revised 10/10/73 (214), 06/09/88 (621), Revised/Renumbered 08/08/91 (702)

Whenever any records or other information, other than ambient air quality data or emission data, furnished to or obtained by the Agency, pursuant to any sections in Chapter 70.94 RCW, relates to processes or production unique to the owner or operator, or are likely to affect adversely the competitive position of such owner or operator if released to the public or to a competitor, and the owner or operator of such processes or production so certifies, such records or information shall be only for the confidential use of the Agency. Nothing herein shall be construed to prevent the use of records or information by the Agency in compiling or publishing analysis or summaries relating to the general condition of the outdoor atmosphere: Provided, that such analysis or summaries do not reveal any information otherwise confidential under the provisions of this section: Provided further, that emission data furnished to or obtained by the Agency shall be correlated with applicable emission limitations and other control measures and shall be available for public inspection during normal business hours at offices of the Agency.

SECTION 3.21 SEPARABILITY Adopted 03/13/68 (12)
Revised/Renumbered 08/08/91 (702)

If any provision of Regulation I, II, or III is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality or validity of every other provision of the Regulations shall not be affected thereby.

SECTION 3.23 ALTERNATE MEANS OF COMPLIANCE Adopted 12/09/93 (769)
Revised 09/12/96 (839)

Other emission reduction methods may be employed to achieve compliance with the emissions standards of Regulations I, II, and III if the owner or operator demonstrates to the satisfaction of the Control Officer that they are at least as effective as the required methods and they are included in a regulatory order issued under Section 3.03 or a permit issued under Article 6 or 7 of this Regulation.

SECTION 3.25 FEDERAL REGULATION REFERENCE DATE

Adopted 09/13/01 (954)
Revised 09/26/02 (978), 09/25/03 (1009), 09/23/04 (1036), 09/22/05 (1055), 10/26/06 (1082), 09/27/07 (1106), 09/25/08 (1131), 09/24/09 (1170), 09/23/10 (1196), 09/22/11 (1222), 09/27/12 (1253), 09/26/13 (1284), 09/25/14 (1309), 09/24/15 (1328), 09/22/16 (1350), 9/28/17 (1371), 9/27/18 (1394), 9/26/19 (1407)

Whenever federal regulations are referenced in Regulation I, II, or III, the effective date shall be July 1, 2019.

ARTICLE 4: VARIANCES

SECTION 4.01 VARIANCES

Adopted 03/13/68 (12)
Revised 07/09/69 (25), 11/10/71 (135), 08/15/74 (264), Revised/Renumbered 08/08/91 (702), Revised 12/09/99 (905)

- (a) Any person who owns or is in control of any plant, building, structure, establishment, process or equipment including a group of persons who owns or controls like processes or like equipment, or any material subject to Article 8 of this regulation, may apply to the Board for a variance from rules or regulations governing the quality, nature, duration, or extent of discharge of air contaminants. The application shall be accompanied by such information and data as the Board may require. The total time period for a variance and renewal of such variance shall not exceed 1 year. Variances to state rules shall require the approval of the Department of Ecology. The Board may grant such variance, but only after public hearing or due notice, if it finds that:
 - (1) The emissions occurring or proposed to occur do not endanger public health or safety or the environment; and
 - (2) Compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public.
- (b) In addition to the requirements of Section 4.01(a) above, applications seeking a variance shall not be considered complete unless the applicant provides:
 - (1) A list of interested parties and neighbors within 500 feet or more of the property on which the variance is proposed to occur, as deemed necessary by the Air Pollution Control Officer; and
 - (2) For a variance from Article 8 of this regulation, written estimates of the cost of removing, recycling, or reducing the material in place versus burning the material.
- (c) No variance shall be granted pursuant to this section until the Board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public. The Air Pollution Control Officer shall conduct a fact-finding public hearing, upon due notice being published and sent to all interested parties within 500 feet of the property on which the variance is proposed. The Air Pollution Control Officer may require notice to parties beyond 500 feet if deemed necessary. A 30-day advance public notice shall be published in a newspaper of general circulation in the area of the proposed variance and shall include the following information:
 - (1) The time, date, and place of the hearing;
 - (2) The name and address of the owner or operator and the source;

- (3) A brief description of the variance request; and
 - (4) The deadline for submitting written comments to the Agency.
- (d) After the hearing is held, the Air Pollution Control Officer shall make written findings and forward same with a recommended decision on the variance to the Board. The Board shall take action at a regular board meeting.
- (e) Any variance or renewal thereof shall be granted within the requirements of Section 4.01(a) and under conditions consistent with the reasons therefor, and within the following limitations:
- (1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available, and subject to the taking of any substitute or alternate measures that the Board may prescribe.
 - (2) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the Board is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.
 - (3) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in Section 4.01(e)(1) and 4.01(e)(2), it shall be for not more than 1 year.
- (f) In addition to the criteria provided by state and federal statutes, the Air Pollution Control Officer may consider the following factors in making findings regarding requests seeking a variance from Article 8 of this regulation:
- (1) Unusual individual sites, such as those that are bisected by the no-burn boundary; and
 - (2) Unusual economic factors, such as extremely high costs for recycling or hauling, that are attributable to some site-specific condition; and
 - (3) Whether burning in place would be of lower risk or harm to the environment than either removal or reduction in place (chipping, composting, or decay) in such areas as drainages, steep slopes, beaches, and other inaccessible points.

- (g) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the Board on account of the variance, no renewal thereof shall be granted unless, following a public hearing on the complaint on due notice, the Board finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least 60 days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the Board shall give public notice of such application in accordance with rules and regulations of the Board.
- (h) A variance or renewal shall not be a right of the applicant or holder thereof but shall be granted at the discretion of the Board. However, any applicant adversely affected by the denial or the terms and conditions of the granting of an application for a variance or renewal of a variance by the Board may obtain judicial review thereof only under the provisions of Chapter 34.05 RCW as now or hereafter amended.
- (i) Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of RCW 70.94.710 through 70.94.730 to any person or his or her property.
- (j) Variances approved under this section shall not be included in orders or permits provided for in RCW 70.94.161 until such time as the variance has been accepted by the United States Environmental Protection Agency as part of an approved State Implementation Plan.

SECTION 4.03 FILING FEES Adopted 12/13/72 (172)

Revised 12/09/82 (531), 02/13/86 (597), 01/12/89 (639), Revised/Renumbered 08/08/91 (702), 01/14/93 (746), Revised 12/09/99 (905)

A fee of \$1,000.00 shall be paid to the Agency upon the filing of any variance application. The applicant shall also pay all costs associated with any legal notice upon being invoiced by the Agency.

~~REGULATION I~~ **ARTICLE 5: REGISTRATION**

~~SECTION 5.02~~ **APPLICABILITY AND PURPOSE OF THE REGISTRATION PROGRAM**

as adopted: 9/12/96

- ~~(a) **Program Authority and Applicability.** As authorized by RCW 70.94.151, the Board, by this regulation, classifies air contaminant sources which, in its judgment, may cause or contribute to air pollution. This classification is made according to levels and types of emissions and other characteristics that cause or contribute to air pollution. The Board requires both registration and reporting for these classes of air contaminant sources. The classifications are made for the entire area of jurisdiction of the Agency and are made with special reference to effects on health, economic and social factors, and physical effects on property.~~
- ~~(b) **Program Purpose.** As defined in WAC 173-400-099(1), the registration program is a program to develop and maintain a current and accurate record of air contaminant sources. Information collected through the registration program is used to evaluate the effectiveness of air pollution control strategies and to verify source compliance with applicable air pollution requirements.~~
- ~~(c) **Registration and Reporting.** Any person operating or responsible for the operation of an air contaminant source for which registration and reporting are required, shall register the source with the Agency. The owner or operator shall make reports to the Agency containing information as may be required by the Agency concerning location, size, and height of contaminant outlets, processes employed, nature of the air contaminant emission, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.~~
- ~~(d) **Annual Registration Fees.** The Board requires that registration be accompanied by a fee and has determined the amount of this fee for each class of air contaminant source to be as shown in Section 5.07. The amount of fees collected shall not exceed the costs of administering this registration program, which shall be defined as:
 - ~~(1) Initial registration and annual or other periodic reports from the source owner providing the information directly related to air pollution registration;~~
 - ~~(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 sources pursuant to the requirements of the registration program;~~~~

- ~~(5) Staff review, including engineering analysis for accuracy and currentness, of information provided by sources pursuant to the requirements of the registration program;~~
- ~~(6) Clerical and other office support provided in direct furtherance of the registration program; and~~
- ~~(7) Administrative support provided in directly carrying out the registration program.~~

SECTION 5.03 ~~REGISTRATION REQUIRED~~ APPLICABILITY OF REGISTRATION PROGRAM

Adopted 03/13/68 (12)

Revised 11/10/71 (135), 10/10/73 (214), 03/13/80 (461), 12/09/82 (530), 12/13/84 (567), 02/13/86 (597), 08/09/90 (670), 08/12/93 (760), 02/10/94 (777), 09/12/96 (838), 12/12/96 (842), 09/10/98 (870), 07/08/99 (886), 06/24/04 (1030), 10/26/06 (1083), 09/25/08 (1132), 09/24/09 (1171), 03/25/10 (1184), 01/26/12 (1232), 09/27/12 (1254), 09/24/15 (1329), 09/22/16 (1351)

(a) The requirements of this article shall apply only to:

(1) Sources subject to a federal emission standard under:

- (A) 40 CFR Part 60 (except Subparts B, S, BB, and AAA, the provisions of Subpart IIII pertaining to owners and operators of emergency stationary compression ignition internal combustion engines and the provisions of Subpart JJJJ pertaining to owners and operators of emergency stationary spark ignited internal combustion engines);
- (B) 40 CFR Part 61 (except Subparts B, H, I, K, Q, R, T, W, and the provisions of Subpart M pertaining to asbestos on roadways, asbestos demolition and renovation activities, and asbestos spraying);
- (C) 40 CFR Part 62; or
- (D) 40 CFR Part 63 (except Subpart LL, the provisions of Subparts S and MM pertaining to kraft and sulfite pulp mills, the provisions of Subpart ZZZZ pertaining to emergency and limited-use stationary reciprocating internal combustion engines, Subpart BBBB BB pertaining to bulk gasoline plants, and Subparts WWWW, CCCCCC, HHHHHH, WWWW WW, XXXXXX, YYYYYY, and ZZZZZZ);

(2) Sources with a federally enforceable emission limitation established in order to avoid operating permit program applicability under Article 7 of this regulation;

(3) Sources with annual emissions:

- (A) Greater than or equal to 2.50 tons of any single hazardous air pollutant (HAP);
- (B) Greater than or equal to 6.25 tons of total hazardous air pollutants (HAP); or
- (C) Greater than or equal to 25.0 tons of carbon monoxide (CO), nitrogen oxides (NO_x), particulate matter (PM_{2.5} or PM₁₀), sulfur oxides (SO_x), or volatile organic compounds (VOC);

(4) Sources subject to the following sections of Regulation I, II, or III:

- (A) Refuse burning equipment subject to Section 9.05 of Regulation I (including crematories);
- (B) Fuel burning equipment or refuse burning equipment burning oil that exceeds any limit in Section 9.08 of Regulation I and sources marketing oil to such sources;
- (C) Fuel burning equipment subject to Section 9.09 of Regulation I with a rated heat input greater than or equal to 1 MMBtu/hr of any fuel other than natural gas, propane, butane, or distillate oil, or greater than or equal to 10 MMBtu/hr of any fuel;
- (D) Sources with spray-coating operations subject to Section 9.16 of Regulation I;
- (E) Petroleum refineries subject to Section 2.03 of Regulation II;
- (F) Gasoline loading terminals subject to Section 2.05 of Regulation II;
- (G) Gasoline dispensing facilities subject to Section 2.07 of Regulation II;
- (H) Volatile organic compound storage tanks subject to Section 3.02 of Regulation II;
- (I) Can and paper coating facilities subject to Section 3.03 of Regulation II;
- (J) Motor vehicle and mobile equipment coating operations subject to Section 3.04 of Regulation II;
- (K) Flexographic and rotogravure printing facilities subject to Section 3.05 of Regulation II;
- (L) Polyester, vinylester, gelcoat, and resin operations subject to Section 3.08 of Regulation II;
- (M) Aerospace component coating operations subject to Section 3.09 of Regulation II;
- (N) Crushing operations subject to Section 9.18; or
- (O) Ethylene oxide sterilizers subject to Section 3.07 of Regulation III;

(5) Sources with any of the following gas or odor control equipment having a rated capacity of greater than or equal to 200 cfm (≥ 4 " diameter inlet):

- (A) Activated carbon adsorption;
- (B) Afterburner;
- (C) Barometric condenser;
- (D) Biofilter;
- (E) Catalytic afterburner;
- (F) Catalytic oxidizer;
- (G) Chemical oxidation;
- (H) Condenser;
- (I) Dry sorbent injection;

- (J) Flaring;
 - (K) Non-selective catalytic reduction;
 - (L) Refrigerated condenser;
 - (M) Selective catalytic reduction; or
 - (N) Wet scrubber;
- (6) Sources with any of the following particulate control equipment having a rated capacity of greater than or equal to 2,000 cfm (≥ 10 " diameter inlet):
- (A) Baghouse;
 - (B) Demister;
 - (C) Electrostatic precipitator;
 - (D) HEPA (high efficiency particulate air) filter;
 - (E) HVAF (high velocity air filter);
 - (F) Mat or panel filter;
 - (G) Mist eliminator;
 - (H) Multiple cyclones;
 - (I) Rotoclone;
 - (J) Screen;
 - (K) Venturi scrubber;
 - (L) Water curtain; or
 - (M) Wet electrostatic precipitator;
- (7) Sources with a single cyclone having a rated capacity of greater than or equal to 20,000 cfm (≥ 27 " diameter inlet);
- (8) Sources with any of the following equipment or activities:
- (A) Asphalt batch plants;
 - (B) Burn-off ovens;
 - (C) Coffee roasters;
 - (D) Commercial composting with raw materials from off-site;
 - (E) Commercial smokehouses with odor control equipment;
 - (F) Concrete batch plants (ready-mix concrete);
 - (G) Galvanizing;
 - (H) Iron or steel foundries;
 - (I) Microchip or printed circuit board manufacturing;
 - (J) Rendering plants;
 - (K) Rock crushers or concrete crushers;
 - (L) Sewage treatment plants with odor control equipment;
 - (M) Shipyards;

- (N) Steel mills;
- (O) Wood preserving lines or retorts;
- (P) Dry cleaners using perchloroethylene; or
- (Q) Marijuana production; and

~~(1)~~(9) Sources with equipment (or control equipment) that has been determined by the Control Officer to warrant registration through review of a Notice of Construction application under Section 6.03(a) or a Notification under Section 6.03(b) of this regulation, due to the amount and nature of air contaminants produced, or the potential to contribute to air pollution, and with special reference to effects on health, economic and social factors, and physical effects on property.

(b) ~~(a)~~ The ~~registration~~ requirements of this article ~~do not~~ shall not apply to:

- (1) ~~motor~~ Motor vehicles;
- (2) ~~nonroad~~ Nonroad engines or nonroad vehicles as defined in Section 216 of the federal Clean Air Act;
- (3) ~~sources~~ Sources that require an operating permit under Article 7 of this regulation;
- ~~(4) spray coating operations exempt under Section 9.16(b) of this regulation; or~~

(4) Solid fuel burning devices subject to Article 13 of this regulation; or

(5) Any source, including any listed in Sections 5.03~~(b)~~ below, (a)(4) through 5.03(a)(9) of this regulation, that has been determined through review by the Control Officer not to warrant registration, due to the amount and nature of air contaminants produced or the potential to contribute to air pollution, and with special reference to effects on health, economic and social factors, and physical effects on property.

~~(b)~~(c) It shall be unlawful for any person to cause or allow the operation of any source subject to registration under this section, unless it meets all the requirements of Article 5 of this regulation.

~~(e) Except as provided in Section 5.03(a), the owner or operator of each of the following stationary air contaminant sources shall register the source with the Agency by paying the annual fee required by Section 5.07 and submitting any reports required by Section 5.05.~~

- ~~(1) Any category of stationary sources to which a federal standard of performance (NSPS) under 40 CFR Part 60, other than Subpart S (Primary Aluminum Reduction Plants), BB (Kraft Pulp Mills), or~~

~~AAA (New Residential Wood Heaters), applies;~~

~~(2) Any source category subject to the National Emission Standards for Hazardous Air Pollutants (NESHAP) under 40 CFR Part 61, other than Subpart M (asbestos on roadways, asbestos demolition or renovation activities, or asbestos spraying), or 40 CFR Part 63;~~

~~(3) Any source that emits any of the following pollutants at a rate of emission equal to or greater than any one of the following rates (tons/year):~~

~~carbon monoxide 25~~

~~nitrogen oxides 25~~

~~sulfur dioxide 25~~

~~particulate matter (PM10) 25~~

~~particulate matter (PM2.5) 25~~

~~volatile organic compounds (VOC) 25~~

~~facility combined total of all toxic air contaminants (TAC) 6~~

~~any single toxic air contaminant (TAC) 2~~

~~(4) Any source that has equipment or control equipment, with an approved Notice of Construction under Article 6 of Regulation I;~~

~~(5) Any source that has been determined through review by the Control Officer to warrant registration due to the amount and nature of air contaminants produced, or the potential to contribute to air pollution with special reference to effects on health, economic and social factors, and physical effects on property;~~

~~(6) Any source that has elected to opt out of the operating permit program by limiting its potential to emit (synthetic minor) or is required to report periodically to demonstrate nonapplicability to EPA requirements under Sections 111 or 112 of the Federal Clean Air Act.~~

~~(7) Other sources, such as:~~

~~aerosol can filling facilities;~~

~~agricultural chemical facilities engaging in the manufacturing of liquid or dry fertilizers or pesticides;~~

~~agricultural drying and dehydrating operations;~~

~~alumina processing;~~

~~ammonium sulfate manufacturing plants;~~

~~asphalt and asphalt products production facilities;~~

~~automobile or light duty truck surface coating operations;~~

~~baker's yeast manufacturing;~~

~~brick and clay manufacturing plants, including tiles and ceramics;~~

~~cattle feedlots with operational facilities that have an inventory of 1,000 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;~~

~~chemical manufacturing plants;~~

~~coal preparation plants;~~

~~coffee roasting facilities;~~

~~composting operations, including commercial, industrial and municipal, but exempting agricultural and residential composting activities;~~

~~concrete product manufacturers and ready mix and premix concrete plants;~~

~~crematoria or animal carcass incinerators;~~

~~dry cleaning plants;~~

~~ethylene dichloride, polyvinyl chloride, or vinyl chloride plants;~~

~~explosives production;~~

~~flexible polyurethane foam production;~~

~~flexible vinyl and urethane coating and printing operations;~~

~~gasoline stations, bulk gasoline plants, and gasoline loading terminals;~~

~~gelcoat, polyester, resin, or vinylester coating manufacturing operations at commercial or industrial facilities;~~

~~glass manufacturing plants;~~

~~grain, seed, animal feed, legume, and flour processing operations and handling facilities;~~

~~hazardous waste treatment and disposal facilities;~~

~~ink manufacturers;~~

~~insulation fiber manufacturers;~~

~~landfills, active and inactive, including covers, gas collection systems, or flares;~~

~~lead-acid battery manufacturing plants;~~

~~lime manufacturing plants;~~

~~metal casting facilities and foundries, ferrous and nonferrous;~~

~~metal plating and anodizing operations;~~

~~metallic and nonmetallic mineral processing plants, including rock crushing plants and sand and gravel operations;~~

~~metallurgical processing plants;~~

~~mills such as lumber, plywood, shake, shingle, woodchip, veneer operations, dry kilns, pulpwood insulating board, or any combination thereof;~~

~~mineral wool production;~~

~~mineralogical processing plants;~~

~~municipal waste combustors;~~

~~nitric acid plants;~~

~~paper manufacturers, except Kraft and sulfite pulp mills;~~

~~petroleum refineries;~~

~~pharmaceuticals production;~~

~~plastics and fiberglass product fabrication facilities;~~

~~pneumatic materials conveying operations and industrial house-keeping vacuuming systems that exhaust more than 1,000 acfm to the atmosphere;~~

~~portland cement plants;~~

~~primary copper smelters, lead smelters, magnesium refining and zinc smelters, but excluding primary aluminum plants;~~

~~rendering plants;~~

~~semiconductor manufacturing;~~

~~shipbuilding and ship repair (surface coating);~~

~~soil vapor extraction (active), thermal soil contaminant desorption, or groundwater air stripping remediation projects;~~

~~sulfuric acid plants;~~

~~surface coating manufacturers;~~

~~surface spray coating operations, including automotive, metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper, and other substrates;~~

~~synthetic fiber production facilities;~~

~~synthetic organic chemical manufacturing industries;~~

~~tire recapping facilities;~~

~~vegetable oil production;~~

~~wastewater treatment plants; or~~

~~wood treatment.~~

(d) An exemption from new source review under Article 6 of this regulation shall not be construed as an exemption from registration under this article. In addition, an exemption from registration under this article shall not be construed as an exemption from any other provision of Regulation I, II, or III.

SECTION 5.05 ~~GENERAL REPORTING~~ REGISTRATION REQUIREMENTS FOR REGISTRATION

~~Adopted 03/13/68 (12)~~

~~Revised 11/10/71 (135), 12/09/82 (530), 06/09/88 (621), 10/12/89 (653), 08/09/90 (670), 09/12/96 (838), 09/11/97 (856), 09/10/98 (870)~~

~~05/22/03 (994), 06/24/04 (1030), 12/15/16 (1356)~~

(a) The owner or operator of a source requiring registration under Section 5.03 of this regulation shall make reports containing information as required by the Agency concerning location, size, and height of contaminant outlets, processes employed, nature and quantity of the air contaminant emission, and such other information as is relevant to air pollution and available or reasonably capable of being assembled. The owner or operator shall be responsible for obtaining the proper forms from the Agency, notifying the Agency of its existence (including changes in its ownership or name), and for the accuracy, completeness, and timely submittal of all registration reports and fees.

- ~~(a) General. The owner or operator of an air contaminant source for which registration is required by Section 5.03, shall make reports containing information as required by the Agency concerning location, size, and height of contaminant outlets, processes employed, nature and quantity of the air contaminant emission, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.~~
- ~~(b) Registration Form. Registration information shall be provided on forms supplied by the Agency and shall be completed and returned within the time specified on the form.~~
- ~~(c) Reporting Responsibility. The owner, operator, or a designated representative shall sign Agency registration and reporting forms for each source. The owner or operator of the source shall be responsible for notifying the Agency of the existence of the source, and for the accuracy, completeness, and timely submittal of registration reporting information and any accompanying fee.~~

(b) The owner or operator of a source requiring registration under Section 5.03 of this regulation shall submit a report by June 30th of each year, listing the emissions of those air contaminants emitted during the previous calendar year that equaled or exceeded:

- (1) 2.50 tons of any single hazardous air pollutant (HAP);
- (2) 6.25 tons of total hazardous air pollutants (HAP);
- (3) 25.0 tons of carbon monoxide (CO), nitrogen oxides (NO_x), particulate matter (PM_{2.5} or PM₁₀), sulfur oxides (SO_x), or volatile organic compounds (VOC); or
- (4) 0.5 tons of lead.

~~(d) **Emission Reporting.** An emission report shall be required from the owner or operator of a source requiring registration, listing those air contaminants emitted during the previous calendar year that equal or exceed the following (tons /- year):-~~

carbon monoxide (CO), emissions	25
facility combined total of all toxic air contaminant(TAC) emissions	6
any single toxic air contaminant (TAC) emissions	2
nitrogen oxide (NO_x), emissions	25
particulate matter (PM₁₀) emissions	25
particulate matter (PM_{2.5}) emissions	25
sulfur oxide (SO_x) emissions	25
volatile organic compounds (VOC) emissions	25

~~Annual emission rates shall be reported to the nearest whole tons per year for only those air contaminants that equal or exceed the thresholds above.~~

~~(e) — **Operation and Maintenance Plan.** Owners or operators of air contaminant sources subject to Section 5.03 above shall~~

~~(b)~~(c) The owner or operator of a registered source shall develop and implement an operation and maintenance plan to ~~assure~~ensure continuous compliance with Regulations I, II, and III. A copy of the plan shall be filed with the Control Officer upon request. The plan shall reflect good industrial practice and shall include, but not be limited to, the following:

- (1) Periodic inspection of all equipment and control equipment;
- (2) Monitoring and recording of equipment and control equipment performance;
- (3) Prompt repair of any defective equipment or control equipment;
- (4) Procedures for start up, shut down, and normal operation;
- (5) The control measures to be employed to ~~assure~~ensure compliance with Section 9.15 of ~~Regulation I~~this regulation; and
- (6) A record of all actions required by the plan.

The plan shall be reviewed by the source owner or operator at least annually and updated to reflect any changes in good industrial practice.

~~(f) — **Report of Closure.** Continued payment of the annual registration fee to the Agency maintains the registration of the source with the Agency, as well as the status of the source as an operating facility. A source shall only be removed from the registration program after a written request has been received from the owner or operator of the source. It shall be unlawful for any person to operate a source that has been removed from registration, unless the owner or operator has submitted and received an approval for a “Notice of Construction and Application for Approval”, in compliance with Article 6.~~

~~(g) — **Report of Change of Ownership.** A new owner of a source shall report in writing any change of ownership to the Agency within 90 days of such a change.~~

SECTION 5.07 ANNUAL REGISTRATION FEES Adopted 12/09/82 (530)

Revised 01/10/85 (573), 10/12/89 (653), 08/09/90 (670), 12/12/91 (713), 07/08/93 (756), 09/08/94 (798), 09/14/95 (821), 09/12/96 (839), 09/11/97 (856), 09/10/98 (871), 09/09/99 (894), 07/13/00 (925), 06/14/01 (946), 10/11/01 (957), 05/23/02 (968), 05/22/03 (994), 06/24/04 (1030), 06/23/05 (1044), 06/22/06 (1067), 05/22/08 (1117), 03/25/10 (1184), 05/26/11 (1210), 05/24/12 (1242), 09/22/16 (1352)

- (a) The Agency shall assess annual fees as set forth in Section 5.07(c) of this regulation for services provided in administering the registration program. Fees received under the registration program shall not exceed the cost of administering the program, which shall be defined as initial registration and annual or other periodic reports from the source owner providing information directly related to air pollution registration, on-site inspections necessary to verify compliance with registration requirements, data storage and retrieval systems necessary for support of the registration program, emission inventory reports and emission reduction credits computed from information provided by sources pursuant to registration program requirements, staff review, including

engineering analysis for accuracy and currentness, of information provided by sources pursuant to registration program requirements, clerical and other office support provided in direct furtherance of the registration program, and administrative support provided in directly carrying out the registration program. Payment of these fees by the owner or operator of a source shall maintain its active registration status (even if it is not actively operating).

- (b) Upon assessment by the Agency, registration fees are due and payable within 45 days of the date of the invoice. Registration fees shall be deemed delinquent if not fully paid within 45 days of the date of the invoice. Persons or sources that under-report emissions, fail to submit other information used to set fees, or fail to pay required fees within 90 days of the date of the invoice, may be subject to a penalty equal to 3 times the amount of the original fee owed (in addition to other penalties provided by chapter 70.94 RCW).
- (c) Except as specified in Section 5.07(d) and (e) of this regulation, registered sources shall be assessed a fee of \$1,150, plus the following fees:
 - (1) Sources subject to a federal emission standard as specified in Section 5.03(a)(1) of this regulation shall be assessed \$2,100 per subpart of 40 CFR Parts 60-63;
 - (2) Sources subject to a federally enforceable emission limitation as specified in Section 5.03(a)(2) or meeting the emission thresholds specified in Section 5.03(a)(3) of this regulation shall be assessed \$2,300;
 - (3) Sources subject to the emission reporting requirements under Section 5.05(b) of this regulation shall be assessed \$30 for each ton of CO and \$60 for each ton of NO_x, PM₁₀, SO_x, HAP, and VOC, based on the emissions reported during the previous calendar year;
 - (4) Sources with more than one coffee roaster installed on-site that are approved under a Notice of Construction Order of Approval shall be assessed \$2,300;
 - (5) Sources of commercial composting with raw materials from off-site and with an installed processing capacity of <100,000 tons per year shall be assessed \$5,750; and
 - (6) Sources of commercial composting with raw materials from off-site and with an installed processing capacity of ≥100,000 tons per year shall be assessed \$23,000.
- (d) Gasoline dispensing facilities shall be assessed the following fees based on their gasoline throughput during the previous calendar year (as certified at the time of payment):
 - (1) More than 6,000,000 gallons..... \$4,085;
 - (2) 3,600,001 to 6,000,000 gallons \$2,030;
 - (3) 1,200,001 to 3,600,000 gallons\$1,350;
 - (4) 840,001 to 1,200,000 gallons\$675;
 - (5) 200,001 to 840,000 gallons \$340.

- (e) The following registered sources shall be assessed an annual registration fee of \$140, provided that they meet no other criteria listed in Section 5.03(a) of this regulation:
 - (1) Sources with spray-coating operations subject to Section 9.16 of this regulation that use no more than 4,000 gallons per year of total coatings and solvents;
 - (2) Gasoline dispensing facilities subject to Section 2.07 of Regulation II with gasoline annual throughput during the previous calendar year (as certified at the time of payment) of no more than 200,000 gallons;
 - (3) Motor vehicle and mobile equipment coating operations subject to Section 3.04 of Regulation II;
 - (4) Unvented dry cleaners using perchloroethylene; and
 - (5) Batch coffee roasters subject to notification under Section 6.03(b)(11) of this regulation.

SECTION 5.12 REGISTRATION OF CRUSHING OPERATIONS Adopted 01/26/12

(1232)

- (a) Applicability – This section applies to all crushing operations subject to registration under Section 5.03 of this regulation. Every site which has crushing equipment installed for operation shall be registered by the owner or the operator of that equipment with this Agency prior to any crushing operation.
- (b) Initial Registration
 - (1) New crushing operations shall be registered with this agency prior to operation commencing through submittal of the crushing operation information specified on registration forms provided by the agency. All information on the registration form shall be provided as specified. Incomplete registration form submittals will not be acceptable to create an active registration.
 - (2) Registration is not completed until all fees due are paid, as identified in Section 5.12(c) of this regulation.
 - (3) The valid registration of an existing crushing operation may be moved to another site without a new registration, provided that no other operable crushing equipment installed for active operation on a site is using that same registration.
- (c) Fees
 - (1) Registration fees for crushing operations shall be assessed as identified in Section 5.07 of this regulation.
 - (A) Registered crushing operations may maintain registration through payment of the annual invoices sent to actively registered sources.
 - (B) Initial registration of a crushing operation shall be subject to the fees identified in Section 5.07 of this regulation. There is no proration of fees for registration of crushing operations that are less than a full year.

Registration fees in Section 5.07 (and as identified on the forms provided by the Agency) shall be submitted with the initial registration. Inapplicable federal emission standard fees identified in Section 5.07(c)(1) of this regulation will be refunded, as determined through review of the registration submittal.

- (2) Unregistered crushing operations at a site are subject to the penalty provisions identified in Section 5.07(b).
- (d) Operational Information – The owner or operator of a crushing operation shall maintain records of sites and dates crushing occurred in this Agency's jurisdiction. All records must be current, retained for at least 2 years, and available to Agency representatives upon request.

ARTICLE 6: NEW SOURCE REVIEW

SECTION 6.01 COMPONENTS OF NEW SOURCE REVIEW PROGRAM

Adopted 03/25/04 (1024)

Revised 11/17/05 (1056), 03/23/06 (1063), 09/27/07 (1107), 09/24/09 (1172), 09/22/11 (1221), 03/28/13 (1270)

(a) In addition to the provisions of this regulation, the Agency adopts by reference and enforces the following provisions of the new source review program established by the Washington State Department of Ecology:

WAC 173-400-030 Definitions. (effective 12/29/12)

WAC 173-400-081 Startup and shutdown. (effective 4/01/11)

WAC 173-400-110 New source review (NSR) for sources and portable sources. (effective 12/29/12) (1)(c)(i), (1)(d) and (1)(e)

WAC 173-400-111 Processing notice of construction applications for sources, stationary sources and portable sources. (effective 7/01/16)

WAC 173-400-112 Requirements for new sources in nonattainment areas. (effective 12/29/12)

WAC 173-400-113 Requirements for new sources in attainment or unclassifiable areas. (effective 12/29/12)

WAC 173-400-114 Requirements for replacement or substantial alteration of emission control technology at an existing stationary source. (effective 12/29/12)

WAC 173-400-117 Special protection requirements for federal Class I areas. (effective 12/29/12)

WAC 173-400-171 Public notice. (effective 7/01/16)

WAC 173-400-200 Creditable stack height and dispersion techniques. (effective 2/10/05)

WAC 173-400-560 General order of approval. (effective 12/29/12)

WAC 173-400-700 Review of major stationary sources of air pollution. (effective 4/01/11)

WAC 173-400-710 Definitions. (effective 7/01/16)

WAC 173-400-720 Prevention of significant deterioration (PSD). (effective 7/01/16)

WAC 173-400-730 Prevention of significant deterioration application processing procedures. (effective 7/01/16)

WAC 173-400-740 PSD permitting public involvement requirements. (effective 7/01/16)

<u>WAC 173-400-750</u>	<u>Revisions to PSD permits. (effective 12/29/12)</u>
<u>WAC 173-400-800</u>	<u>Major stationary source and major modification in a nonattainment area. (effective 4/01/11)</u>
<u>WAC 173-400-810</u>	<u>Major stationary source and major modification definitions. (effective 7/01/16)</u>
<u>WAC 173-400-820</u>	<u>Determining if a new stationary source or modification to a stationary source is subject to these requirements. (effective 12/29/12)</u>
<u>WAC 173-400-830</u>	<u>Permitting requirements. (effective 7/01/16)</u>
<u>WAC 173-400-840</u>	<u>Emission offset requirements. (effective 7/01/16)</u>
<u>WAC 173-400-850</u>	<u>Actual emissions plantwide applicability limitation (PAL). (effective 7/01/16)</u>
<u>WAC 173-400-860</u>	<u>Public involvement procedures. (effective 4/01/11)</u>
<u>WAC 173-460-020</u>	<u>Definitions. (effective 6/20/09)</u>
<u>WAC 173-460-030</u>	<u>Applicability. (effective 6/20/09)</u>
<u>WAC 173-460-040</u>	<u>New source review. (effective 6/20/09)</u>
<u>(2)-(3)</u>	
<u>WAC 173-460-050</u>	<u>Requirement to quantify emissions. (effective 6/20/09)</u>
<u>WAC 173-460-060</u>	<u>Control technology requirements. (effective 6/20/09)</u>
<u>(1)</u>	
<u>WAC 173-460-070</u>	<u>Ambient impact requirement. (effective 6/20/09)</u>
<u>WAC 173-460-071</u>	<u>Voluntary limits on emissions. (effective 6/20/09)</u>
<u>WAC 173-460-080</u>	<u>First tier review. (effective 6/20/09)</u>
<u>(2)-(4)</u>	
<u>WAC 173-460-090</u>	<u>Second tier review. (effective 6/20/09)</u>
<u>WAC 173-460-100</u>	<u>Third tier review. (effective 6/20/09)</u>
<u>WAC 173-460-150</u>	<u>Table of ASIL, SQER and de minimis emission values. – excluding references to de minimis emission values (effective 6/20/09)</u>

[\(b\) The Washington State Department of Ecology is the permitting agency for the Prevention of Significant Deterioration \(PSD\) program under WAC 173-400-700 through WAC 173-400-750 \(as delegated by agreement with the US Environmental Protection Agency, Region 10\), and for primary aluminum smelters, kraft pulp mills, and sulfite pulp mills.](#)

[\(c\) The Washington State Department of Health is the permitting agency for radionuclides under chapter 246-247 WAC.](#)

(d) The Energy Facility Site Evaluation Council (EFSEC) is the permitting agency for large natural gas and oil pipelines, electric power plants above 350 megawatts, new oil refineries or large expansions of existing facilities, and underground natural gas storage fields under chapter 463-78 WAC.

SECTION 6.03 NOTICE OF CONSTRUCTION

Adopted 03/13/68 (12)
Revised 11/10/71 (135), 11/21/74 (285), 03/13/80 (461), 12/09/82 (531), 02/13/86 (597), 11/19/92 (738), 09/12/96 (838), 03/11/99 (880), 07/08/99 (886), 07/12/01 (944), 03/25/04 (1024), 03/23/06 (1064), 10/26/06 (1083), 09/25/08 (1132), 09/24/09 (1171), 09/22/11 (1221), 01/26/12 (1232), 09/27/12 (1254), 09/26/13 (1285), 12/18/14 (1313), 09/24/15 (1329)

(a) It shall be unlawful for any person to cause or allow the ~~construction, installation, establishment, or modification of an air contaminant source, except those sources that are excluded in Section 6.03(b), unless a "Notice of Construction and Application for Approval" has been filed with and approved by the Agency.~~ establishment of a new source, or the replacement or substantial alteration of control equipment installed on an existing source, unless a "Notice of Construction application" has been filed and an "Order of Approval" has been issued by the Agency. The exemptions in Sections 6.03(b) and (c) of this regulation shall not apply to:

(1) Any project that qualifies as construction, reconstruction, or modification of an affected facility within the meaning of 40 CFR Part 60 (New Source Performance Standards), except for Subpart AAA (New Residential Wood Heaters), Subpart BB (Kraft Pulp Mills), Subpart S (Primary Aluminum Reduction Plants), Subpart OOO (Nonmetallic Mineral Processing Plants), Subpart IIII pertaining to owners and operators of emergency stationary compression ignition internal combustion engines, and Subpart JJJJ pertaining to owners and operators of emergency stationary spark ignited internal combustion engines; and for relocation of affected facilities under Subpart I (Hot Mix Asphalt Facilities) for which an Order of Approval has been previously issued by the Agency;

(2) Any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (National Emission Standards for Hazardous Air Pollutants), except for Subpart B (Radon from Underground Uranium Mines), Subpart H (Emissions of Radionuclides other than Radon from Department of Energy Facilities), Subpart I (Radionuclides from Federal Facilities other than Nuclear Regulatory Commission Licensees and not covered by Subpart H), Subpart K (Radionuclides from Elemental Phosphorus Plants), Subpart Q (Radon from Department of Energy Facilities), Subpart R (Radon from Phosphogypsum Stacks), Subpart T (Radon from Disposal of Uranium Mill Tailings), Subpart W (Radon from Operating Mill Tailings), and for demolition and renovation projects subject to Subpart M (Asbestos);

(3) Any project that qualifies as a new source as defined under 40 CFR 63.2 (National Emission Standards for Hazardous Air Pollutants for Source Categories), except for the provisions of Subpart M (Dry Cleaning Facilities) pertaining to area source perchloroethylene dry cleaners, Subpart LL (Primary Aluminum Reduction Plants), the provisions of Subpart S (Pulp and Paper Industry) and Subpart MM (Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone

Semichemical Pulp Mills) pertaining to kraft and sulfite pulp mills, the provisions of Subpart ZZZZ (Reciprocating Internal Combustion Engines) pertaining to emergency and limited-use stationary reciprocating internal combustion engines, Subpart DDDDD (Industrial, Commercial, and Institutional Boilers and Process Heaters), Subpart WWWW (Hospitals: Ethylene Oxide Sterilizers), Subpart CCCCC (Gasoline Dispensing Facilities), Subpart HHHHH (Paint Stripping and Miscellaneous Surface Coating Operations), Subpart WWWW (Plating and Polishing Operations), Subpart XXXXX (Nine Metal Fabrication and Finishing Source Categories), Subpart YYYYY (Ferroalloys Production Facilities), and Subpart ZZZZZ (Aluminum, Copper, and Other Nonferrous Foundries);

- (4) Any new major stationary source or major modification as defined under WAC 173-400-030; and
- (5) Any stationary source previously exempted from review that is cited by the Agency for causing air pollution under Section 9.11 of this regulation.

(b) **Notifications.** A Notice of Construction application and Order of Approval are not required for the new sources identified in this section, provided that a complete notification is filed with the Agency. It shall be unlawful for any person to cause or allow establishment of a new source identified in this section unless a complete notification has been filed with the Agency:

Liquid Storage and Transfer

- (1) Storage tanks used exclusively for:
 - (A) Gasoline dispensing and having a rated capacity of $\geq 1,001$ gallons, PROVIDED THAT they are installed in accordance with the current California Air Resources Board Executive Orders;
 - (B) Organic liquids with a true vapor pressure of 2.2-4.0 psia and having a rated capacity of 20,000-39,999 gallons; or
 - (C) Organic liquids with a true vapor pressure of 0.5-0.75 psia and having a rated capacity $\geq 40,000$ gallons.
- (2) Loading and unloading equipment used exclusively for the storage tanks exempted above, including gasoline dispensers at gasoline stations.

Relocation of Portable Batch Plants

- (3) Relocation of the following portable facilities: asphalt batch plants, nonmetallic mineral processing plants, and concrete batch plants for which an Order of Approval has been previously issued by the Agency. *All the conditions in the previously issued Order of Approval remain in effect.*

Dry Cleaning

- (4) Unvented, dry-to-dry, dry-cleaning system that uses perchloroethylene as the cleaning solvent and is equipped with emission control equipment to recover the cleaning solvent, PROVIDED THAT the system and installation comply with all requirements of 40 CFR 63, Subpart M (Dry Cleaning Facilities).

Printing

- (5) Non-heatset, web offset presses and wholesale, sheet-fed offset presses (lithographic or letterpress) using exclusively soy-based or kerosene-like oil-based inks, fountain solutions with $\leq 6\%$ VOC by volume or $\leq 8.5\%$ if refrigerated to $< 60^{\circ}\text{F}$, and cleaning solvents with a vapor pressure $\leq 25\text{mm Hg}$ or a VOC content $\leq 30\%$ by volume.

Water Treatment

- (6) Industrial and commercial wastewater evaporators (except flame impingement) used exclusively for wastewater generated on-site that meets all discharge limits for disposal into the local municipal sewer system (including metals, cyanide, fats/oils/grease, pH, flammable or explosive materials, organic compounds, hydrogen sulfide, solids, and food waste). *A letter from the local sewer district documenting compliance is required in order to use this exemption.*

Sanding Equipment

- (7) Sanding equipment controlled by a fabric filter with an airflow of 2,000-5,000 cfm and an air-to-cloth ratio of $< 3.5:1$ (for reverse-air or manual cleaning) or $< 12:1$ (for pulse-jet cleaning).

Ventilation and Control Equipment

- (8) Vacuum-cleaning systems used exclusively for industrial, commercial, or residential housekeeping purposes controlled by a fabric filter with an airflow of 2,000-5,000 cfm and an air-to-cloth ratio of $< 3.5:1$ (for mechanical or manual cleaning) or $< 12:1$ (for pulse-jet cleaning).
- (9) Replacement of an existing paint spray booth that has previously received an Order of Approval, with like kind equipment and for spray coating operations that continue to operate consistent with the previously issued Order of Approval. *All the conditions in the previously issued Order of Approval remain in effect.*

Miscellaneous

- (10) Any source not otherwise exempt under Section 6.03(c) of this regulation that has been determined through review of a Notice of Construction application by the Control Officer not to warrant an

Order of Approval because it has a de minimis impact on air quality and does not pose a threat to human health or the environment.

Coffee Roasters

(11) Batch coffee roasters with a maximum rated capacity of 10 lbs per batch or less.

~~(a)~~(c) **Exemptions.** A Notice of Construction application and Order of Approval are not required for the following new sources, provided that sufficient records are kept to document the exemption:

~~(b) — Except when part of a new major source or major modification in a nonattainment area, the following air contaminant sources do not need a “Notice of Construction and Application for Approval” approved by the Agency prior to construction, installation, establishment, or modification:~~

Combustion

(1) Fuel-burning equipment (except when combusting pollutants generated by a non-exempt source) having a rated capacity:

(A) <10 million Btu per hour heat input burning exclusively distillate fuel oil, natural gas, propane, butane, biodiesel that meets ASTM D 6751 specifications (or any combination thereof);

(B) <0.5 million Btu per hour heat output burning waste-derived fuel (including fuel oil not meeting the specifications in Section 9.08 of this regulation); or

(C) <1 million Btu per hour heat input burning any other fuel

~~(2) — Fuel burning equipment that has a maximum input rate of:~~

~~(A) — less than 0.5 million Btu per hour (0.15 million joules per second) burning waste-derived fuel; or~~

~~(B) — less than 10 million Btu per hour (3 million joules per second) — burning natural gas, propane, or butane; or~~

~~(C) — less than 1 million Btu per hour (0.3 million joules per second) — burning any other fuel.~~

(2) All stationary gas turbines with a rated heat input <10 million Btu per hour.

(3) Stationary internal combustion engines having a rated capacity:

(A) <50 horsepower output;

(B) Used solely for instructional purposes at research, teaching, or educational facilities; or

~~(A)~~(C) Portable or standby units operated <500 hours per year, PROVIDED THAT they are not operated at a facility with a power supply contract that offers a lower rate in exchange for the power supplier’s ability to curtail energy consumption with prior notice.

~~(4) Internal combustion engines less than the size thresholds of the proposed United States Environmental Protection Agency (EPA) New Source Performance Standards (NSPS) 40 CFR Part 60 Subpart FF (Stationary Internal Combustion Engines, 44 FR 43152 7/23/79) or the promulgated EPA NSPS 40 CFR Part 60 Subpart GG (Stationary Gas Turbines).~~

(4) Relocation of portable, stationary internal combustion engines or gas turbines for which an Order of Approval has been previously issued by the Agency.

(5) All nonroad compression ignition engines subject to 40 CFR Part 89 and land-based nonroad compression engines subject to 40 CFR Part 1039.

Metallurgy

(6) Crucible furnaces, pot furnaces, or induction furnaces with a capacity $\leq 1,000$ pounds, PROVIDED THAT no sweating or distilling is conducted, and PROVIDED THAT only precious metals, or an alloy containing $>50\%$ aluminum, magnesium, tin, zinc, or copper is melted.

(7) Crucible furnaces or pot furnaces with a capacity ≤ 450 cubic inches of any molten metal.

(8) Ladles used in pouring molten metals.

(9) Foundry sand-mold forming equipment.

(10) Shell core and shell-mold manufacturing machines.

(11) Molds used for the casting of metals.

(12) Die casting machines with a rated capacity $\leq 1,000$ pounds that are not used for copper alloys.

(13) Equipment used for heating metals immediately prior to forging, pressing, rolling, or drawing, if any combustion equipment is also exempt.

(14) Forming equipment used exclusively for forging, rolling, or drawing of metals, if any combustion equipment is also exempt.

(15) Heat treatment equipment used exclusively for metals, if any combustion equipment is also exempt.

(16) Equipment used exclusively for case hardening, carburizing, cyaniding, nitriding, carbonitriding, siliconizing, or diffusion treating of metals, if any combustion equipment is also exempt.

(17) Atmosphere generators used in connection with metal heat-treating processes.

(18) Sintering equipment used exclusively for metals other than lead, PROVIDED THAT no coke or limestone is used, if any combustion equipment is also exempt.

(19) Welding equipment, and thermal cutting of metals other than stainless steel. Exceptions or specific conditions that apply to these exemptions are identified as follows:

(A) Thermal cutting of stainless steel (defined as an alloy with a minimum chromium content of 10.5%, by weight) installed after November 1, 2013 shall not be exempt;

(B) Thermal cutting of stainless steel performed solely for plant maintenance activities shall be exempt;

(C) Thermal cutting of stainless steel refers to all thermal cutting technologies, including but not limited to, plasma arc, air carbon arc, laser, powder torch, and oxy-fuel technologies.

~~(11) Welding, brazing, or soldering equipment.~~

(20) Soldering or brazing, or equipment, including brazing ovens.

(21) Equipment used exclusively for surface preparation, passivation, deoxidation, and/or stripping that meets all of the following tank content criteria:

(A) ≤ 50 grams of VOC per liter;

(B) No acids other than boric, formic, acetic, phosphoric, sulfuric, or $\leq 12\%$ hydrochloric; and

(C) May contain alkaline oxidizing agents, hydrogen peroxide, salt solutions, sodium hydroxide, and water in any concentration.

Associated rinse tanks and waste storage tanks used exclusively to store the solutions drained from this equipment are also exempt. (This exemption does not include anodizing, hard anodizing, chemical milling, circuit board etching using ammonia-based etchant, electrocleaning, or the stripping of chromium, except sulfuric acid and/or boric acid anodizing with a total bath concentration of $\leq 20\%$ by weight and using $\leq 10,000$ amp-hours per day, or phosphoric acid anodizing with a bath concentration of $\leq 15\%$ by weight of phosphoric acid and using $\leq 20,000$ amp-hours per day.)

(22) Equipment used exclusively for electrolytic plating (except the use of chromic and/or hydrochloric acid) or electrolytic stripping (except the use of chromic, hydrochloric, nitric, or sulfuric acid) of brass, bronze, copper, iron, tin, zinc, precious metals, and associated rinse tanks and waste storage tanks used exclusively to store the solutions drained from this equipment. Also, equipment used to electrolytically recover metals from spent or pretreated plating solutions that qualify for this exemption.

Ceramics and Glass

- (23) Kilns used for firing ceramic-ware or artwork, if any combustion equipment is also exempt.
- (24) Porcelain enameling furnaces, porcelain enameling drying ovens, vitreous enameling furnaces, or vitreous enameling drying ovens, if any combustion equipment is also exempt.
- (25) Hand glass melting furnaces, electric furnaces, and pot furnaces with a capacity $\leq 1,000$ pounds of glass.
- (26) Heat-treatment equipment used exclusively for glass, if any combustion equipment is also exempt.
- (27) Sintering equipment used exclusively for glass PROVIDED THAT no coke or limestone is used, if any combustion equipment is also exempt.

Plastics and Rubber and Composites

- (28) Equipment used exclusively for conveying and storing plastic pellets.
- (29) Extrusion equipment used exclusively for extruding rubber or plastics where no organic plasticizer is present, or for pelletizing polystyrene foam scrap.
- (30) Equipment used for extrusion, compression molding, and injection molding of plastics, PROVIDED THAT the VOC content of all mold release products or lubricants is $\leq 1\%$ by weight.
- (31) Injection or blow-molding equipment for rubber or plastics, PROVIDED THAT no blowing agent other than compressed air, water, or carbon dioxide is used.
- (32) Presses or molds used for curing, post-curing, or forming composite products and plastic products, PROVIDED THAT the blowing agent contains no VOC or chlorinated compounds.
- (33) Presses or molds used for curing or forming rubber products and composite rubber products with a ram diameter ≤ 26 inches, PROVIDED THAT it is operated at $\leq 400^{\circ}\text{F}$.
- (34) Ovens used exclusively for the curing or forming of plastics or composite products, where no foam-forming or expanding process is involved, if any combustion equipment is also exempt.
- (35) Ovens used exclusively for the curing of vinyl plastisols by the closed-mold curing process, if any combustion equipment is also exempt.
- (36) Equipment used exclusively for softening or annealing plastics, if any combustion equipment is also exempt.

(37) Hot wire cutting of expanded polystyrene foam and woven polyester film.

(38) Mixers, roll mills, and calenders for rubber or plastics where no material in powder form is added and no organic solvents, diluents, or thinners are used.

Material Working and Handling

(39) Equipment used for mechanical buffing (except tire buffers), polishing, carving, cutting, drilling, grinding, machining, planing, pressing, routing, sawing, stamping, or turning of wood, ceramic artwork, ceramic precision parts, leather, metals, plastics, rubber, fiberboard, masonry, glass, silicon, semiconductor wafers, carbon, graphite, or composites.

~~(8) Routing, turning, carving, cutting, and drilling equipment used for metal, wood, plastics, rubber, leather or ceramics which does not release air contaminants to the ambient air.~~

(40) Hand-held sanding equipment.

(41) Sanding equipment controlled by a fabric filter with an airflow of <2,000 cfm.

(42) Equipment used exclusively for shredding of wood (e.g., tub grinders, hammermills, hoggers), or for extruding, pressing, handling, or storage of wood chips, sawdust, or wood shavings.

(43) Paper shredding and associated conveying systems and baling equipment.

(44) Hammermills used exclusively to process aluminum and/or tin cans.

(45) Tumblers used for the cleaning or deburring of metal products without abrasive blasting.

Abrasive Blasting

(46) Portable abrasive blasting equipment used at a temporary location to clean bridges, water towers, buildings, or similar structures, PROVIDED THAT any blasting with sand (or silica) is performed with $\geq 66\%$ by volume water.

~~(16) Spray painting or blasting equipment used at a temporary location to clean or paint bridges, water towers, buildings, or similar structures.~~

(47) Portable vacuum blasting equipment using steel shot and vented to a fabric filter.

(48) Hydroblasting equipment using exclusively water as the abrasive.

(49) Abrasive blasting cabinets vented to a fabric filter, PROVIDED THAT the total internal volume of the cabinet is ≤ 100 cubic feet.

(50) Shot peening operations, PROVIDED THAT no surface material is removed.

Cleaning

(51) Solvent cleaning:

(A) Non-refillable, hand-held aerosol spray cans of solvent; or

(B) Closed-loop solvent recovery systems with refrigerated or water-cooled condensers used for recovery of waste solvent generated on-site.

(52) Steam-cleaning equipment.

(53) Unheated liquid solvent tanks used for cleaning or drying parts:

(A) With a solvent capacity ≤ 10 gallons and containing $\leq 5\%$ by weight perchloroethylene, methylene chloride, carbon tetrachloride, chloroform, 1,1,1-trichloroethane, trichloroethylene, or any combination thereof;

(B) Using a solvent with a true vapor pressure ≤ 0.6 psi containing $\leq 5\%$ by weight perchloroethylene, methylene chloride, carbon tetrachloride, chloroform, 1,1,1-trichloroethane, trichloroethylene, or any combination thereof;

(C) With a remote reservoir and using a solvent containing $\leq 5\%$ by weight perchloroethylene, methylene chloride, carbon tetrachloride, chloroform, 1,1,1-trichloroethane, trichloroethylene, or any combination thereof; or

(D) With a solvent capacity ≤ 2 gallons; or

(E) Using solutions with a Volatile Organic Compound (VOC) content of $\leq 1\%$ by weight and no identified Hazardous Air Pollutant (HAP), and are heated below the boiling point of the solution.

~~(14) Cold solvent cleaners using a solvent with a true vapor pressure less than or equal to 4.2 kPa (0.06 psia)~~

(54) Hand-wipe cleaning.

Coating, Resin, and Adhesive Application

(55) Powder-coating equipment.

(56) Portable coating equipment and pavement stripers used exclusively for the field application of architectural coatings and industrial maintenance coatings to stationary structures and their appurtenances or to pavements and curbs.

(57) High-volume low-pressure (HVLV) spray-coating equipment having a cup capacity ≤ 8 fluid ounces, PROVIDED THAT it is not used to coat > 9 square feet per day and is not used to coat motor vehicles or

aerospace components.

(58) Airbrushes having a cup capacity ≤ 2 fluid ounces and an airflow of 0.5-2.0 cfm.

(59) Hand-held aerosol spray cans having a capacity of ≤ 1 quart of coating and hand-held brush and rollers for coating application.

(60) Spray-coating equipment used exclusively for application of automotive undercoating or bed liner materials with a flash point $> 100^{\circ}\text{F}$.

(61) Ovens associated with an exempt coating operation, if any combustion equipment is also exempt.

(62) Ovens associated with a coating operation that are used exclusively to accelerate evaporation, if any combustion equipment is also exempt. (Note: The coating operation is not necessarily exempt.)

~~(7) Dryers or ovens used solely to accelerate evaporation.~~

(63) Radiation-curing equipment using ultraviolet or electron beam energy to initiate a chemical reaction forming a polymer network in a coating.

(64) Hand lay, brush, and roll-up resins equipment and operations.

(65) Equipment used exclusively for melting or applying of waxes or natural and synthetic resins.

(66) Hot-melt adhesive equipment.

(67) Any adhesive application equipment that exclusively uses materials containing $< 1\%$ VOC by weight and $< 0.1\%$ HAP.

(68) Equipment used exclusively for bonding of linings to brake shoes, where no organic solvents are used.

Printing

(69) Retail, sheet-fed, non-heatset offset presses (lithographic or letter-press).

~~(15) Retail printing operations (not including web presses).~~

(70) Presses using exclusively UV-curable inks.

(71) Presses using exclusively plastisols.

(72) Presses using exclusively water-based inks (< 1.5 lbs VOC per gallon, excluding water, or $< 10\%$ VOC by volume) and cleaning solvents without VOC.

(73) Presses used exclusively for making proofs.

(74) Electrostatic, ink jet, laser jet, and thermal printing equipment.

(75) Ovens used exclusively for exempt printing presses, if any combustion equipment is also exempt.

Photography

(76) Photographic process equipment by which an image is reproduced upon material sensitized by radiant energy, excluding equipment using perchloroethylene.

Liquid Storage and Transfer

(77) Storage tanks permanently attached to a motor vehicle.

(78) Storage tanks used exclusively for:

(A) Liquefied gases, including any tanks designed to operate in excess of 29.7 psia without emissions;

(B) Asphalt at a facility other than an asphalt roofing plant, asphalt processing plant, hot mix asphalt plants, or petroleum refinery;

(C) Any liquids (other than asphalt) that also have a rated capacity $\leq 1,000$ gallons;

(D) Organic liquids (other than gasoline or asphalt) that also have a rated capacity $< 20,000$ gallons;

(E) Organic liquids (other than asphalt) with a true vapor pressure < 2.2 psia (e.g., ASTM spec. fuel oils and lubricating oils) that also have a rated capacity $< 40,000$ gallons;

(F) Organic liquids (other than asphalt) with a true vapor pressure < 0.5 psia that also have a rated capacity $\geq 40,000$ gallons;

(G) Sulfuric acid or phosphoric acid with an acid strength $\leq 99\%$ by weight;

(H) Nitric acid with an acid strength $\leq 70\%$ by weight;

(I) Hydrochloric acid or hydrofluoric acid tanks with an acid strength $\leq 30\%$ by weight;

(J) Aqueous solutions of sodium hydroxide, sodium hypochlorite, or salts, PROVIDED THAT the surface of the solution contains $\leq 1\%$ VOC by weight;

(K) Liquid soaps, liquid detergents, vegetable oils, fatty acids, fatty esters, fatty alcohols, waxes, and wax emulsions;

(L) Tallow or edible animal fats intended for human consumption and of sufficient quality to be certifiable for United States markets;

(M) Water emulsion intermediates and products, including latex, with a VOC content $\leq 5\%$ by volume or a VOC composite partial pressure of ≤ 0.1 psi at 68°F ; or

(N) Wine, beer, or other alcoholic beverages.

~~(9) Storage tanks:~~

~~(A) that do not store substances capable of emitting air contaminants; or~~

~~(B) with a rated capacity of 1,000 gallons (3,780 liters) or less used for storage of gasoline; or~~

~~(C) with a rated capacity of less than 10,000 gallons (38,000 liters) used for storage of volatile organic compounds; or~~

~~(D) with a rated capacity of less than 40,000 gallons (150,000 liters) used for storage of volatile organic compounds with a true vapor pressure less than 0.01 kPa (0.002 psia).~~

(79) Loading and unloading equipment used exclusively for the storage tanks exempted above.

(80) Loading and unloading equipment used exclusively for transferring liquids or compressed gases into containers having a rated capacity <60 gallons, except equipment transferring >1,000 gallons per day of liquid with a true vapor pressure >0.5 psia.

(81) Equipment used exclusively for the packaging of sodium hypochlorite-based household cleaning or pool products.

Mixing

(82) Mixing equipment, PROVIDED THAT no material in powder form is added and the mixture contains <1% VOC by weight.

(83) Equipment used exclusively for the mixing and blending of materials at ambient temperature to make water-based adhesives.

(84) Equipment used exclusively for the manufacture of water emulsions of waxes, greases, or oils.

(85) Equipment used exclusively for the mixing and packaging of lubricants or greases.

(86) Equipment used exclusively for manufacturing soap or detergent bars, including mixing tanks, roll mills, plodders, cutters, wrappers, where no heating, drying, or chemical reactions occur.

(87) Equipment used exclusively to mill or grind coatings and molding compounds in a paste form, PROVIDED THAT the solution contains <1% VOC by weight.

(88) Batch mixers with a rated working capacity ≤55 gallons.

(89) Batch mixers used exclusively for paints, varnishes, lacquers, enamels, shellacs, printing inks, or sealers, PROVIDED THAT the mixer is equipped with a lid that contacts ≥90% of the rim.

Water Treatment

(90) Oil / water separators, except those at petroleum refineries.

(91) Water cooling towers and water cooling ponds not used for evaporative cooling of process water, or not used for evaporative cooling of water from barometric jets or from barometric condensers, and in which no chromium compounds are contained.

(92) Equipment used exclusively to generate ozone and associated ozone destruction equipment for the treatment of cooling tower water or for water treatment processes.

(93) Municipal sewer systems, including wastewater treatment plants and lagoons, PROVIDED THAT they do not use anaerobic digesters or chlorine sterilization. This exemption does not include sewage sludge incinerators.

~~(10) Sanitary or storm drainage systems.~~

(94) Soil and groundwater remediation projects involving <15 pounds per year of benzene or vinyl chloride, <500 pounds per year of perchloroethylene, and <1,000 pounds per year of toxic air contaminants.

Landfills and Composting

(95) Passive aeration of soil, PROVIDED THAT the soil is not being used as a cover material at a landfill.

(96) Closed landfills that do not have an operating, active landfill gas collection system.

(97) Non-commercial composting.

Agriculture, Food, and Drugs

(98) Equipment used in agricultural operations, in the growing of crops, or the raising of fowl or animals.

~~(2)~~(99) Insecticide, pesticide, or fertilizer spray equipment.

(100) Equipment used in retail establishments to dry, cook, fry, bake, or grill food for human consumption, including charbroilers, smokehouses, barbecue units, deep fat fryers, cocoa and nut roasters, but not including coffee roasters.

~~(13) Restaurants and other retail food preparing establishments.~~

(101) Cooking kettles (other than deep frying equipment) and confection cookers where all the product in the kettle is edible and intended for human consumption.

- (102) Bakery ovens with a total production of yeast leavened bread products <10,000 pounds per operating day, if any combustion equipment is also exempt.
- (103) Equipment used to dry, mill, grind, blend, or package <1,000 tons per year of dry food products such as seeds, grains, corn, meal, flour, sugar, and starch.
- (104) Equipment used to convey, transfer, clean, or separate <1,000 tons per year of dry food products or waste from food production operations.
- (105) Storage equipment or facilities containing dry food products that are not vented to the outside atmosphere, or that handle <1,000 tons per year.
- (106) Equipment used exclusively to grind, blend, package, or store tea, cocoa, spices, coffee, flavor, fragrance extraction, dried flowers, or spices, PROVIDED THAT no organic solvents are used in the process.
- (107) Equipment used to convey or process materials in bakeries or used to produce noodles, macaroni, pasta, food mixes, and drink mixes where products are edible and intended for human consumption, PROVIDED THAT no organic solvents are used in the process. This exemption does not include storage bins located outside buildings.
- (108) Brewing operations at facilities producing <3 million gallons per year of beer.
- (109) Fermentation tanks for wine (excluding tanks used for the commercial production of yeast for sale).
- (110) Equipment used exclusively for tableting, or coating vitamins, herbs, or dietary supplements, PROVIDED THAT no organic solvents are used in the process.
- (111) Equipment used exclusively for tableting or packaging pharmaceuticals and cosmetics, or coating pharmaceutical tablets, PROVIDED THAT no organic solvents are used.

Quarries, Nonmetallic Mineral Processing Plants, and Concrete and Asphalt Batch Plants

- (112) Portable nonmetallic mineral processing plants.
- (113) Fixed nonmetallic mineral processing plants.
- (114) (Reserved).
- (115) Mixers and other ancillary equipment at concrete batch plants (or aggregate product production facilities) with a rated capacity <15 cubic yards per hour.
- (116) Concrete mixers with a rated working capacity of ≤ 1 cubic yard.
- (117) Drilling or blasting (explosives detonation).

(118) Asphaltic concrete crushing/recycling equipment with a throughput <5,000 tons per year.

Construction

(119) Asphalt paving application.

~~(12) Asphalt roofing and laying, equipment (Not including manufacturing or storage)~~

(120) Asphalt (hot-tar) roofing application.

(121) Building construction or demolition, except that notification of demolitions is required under Section 4.03 of Regulation III.

Ventilation and Control Equipment

(122) Comfort air-conditioning systems, or ventilating systems (forced or natural draft), PROVIDED THAT they are not designed or used to control air contaminants generated by, or released from, sources subject to Notice of Construction.

~~(1) Ventilating systems, including fume hoods, not designed to prevent or reduce air contaminant emissions.~~

(123) Refrigeration units, except those used as, or in conjunction with, air pollution control equipment.

(124) Refrigerant recovery and/or recycling units, excluding refrigerant reclaiming facilities.

(125) Emergency ventilation systems used exclusively to contain and control emissions resulting from the failure of a compressed gas storage system.

(126) Emergency ventilation systems used exclusively to scrub ammonia from refrigeration systems during process upsets or equipment breakdowns.

(127) Negative air machines equipped with HEPA filters used to control asbestos emissions from demolition/renovation activities.

(128) Portable control equipment used exclusively for storage tank degassing.

(129) Vacuum-cleaning systems used exclusively for industrial, commercial, or residential housekeeping purposes controlled by a fabric filter with an airflow <2,000 cfm.

(130) Control equipment used exclusively for sources that are exempt from Notice of Construction under Section 6.03(c) of this regulation.

(131) Routine maintenance, repair, or similar parts replacement of control equipment.

Testing and Research

(132) Laboratory testing and quality assurance/control testing equipment used exclusively for chemical and physical analysis, teaching, or experimentation, used specifically in achieving the purpose of the analysis, test, or teaching activity. Non-production bench scale research equipment is also included.

~~(5) Laboratory equipment used exclusively for chemical or physical analyses.~~

Miscellaneous

(133) Single-family and duplex dwellings.

(134) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment, if any combustion equipment used to power such equipment is also exempt.

(135) Equipment, including dryers, used exclusively for dyeing, stripping, or bleaching of textiles where no organic solvents, diluents, or thinners are used, if any combustion equipment used to power such equipment is also exempt.

~~(6) Laundry dryers without control equipment.~~

(136) Chemical vapor sterilization equipment where no ethylene oxide is used, and with a chamber volume of ≤ 2 cubic feet used by healthcare facilities.

(137) Ozone generators that produce < 1 pound per day of ozone.

(138) Fire extinguishing equipment.

~~(17) Any source that has been determined through review by the Control Officer not to warrant a "Notice of Construction and Application for Approval", due to the minimal amount and nature of air contaminants produced and potential to contribute to air pollution, with special reference to effects on health, economic and social factors, and physical effects on property. The owner or operator shall submit to the Control Officer, the information necessary to make this determination. The Control Officer shall notify the owner or operator in writing whether a "Notice of Construction and Application for Approval" is required for the source.~~

~~(b)~~ (d) Each Notice of Construction and Application for Approval application and Section 6.03(b) notification shall be submitted on forms provided by the Agency and shall be accompanied by a set of plans that fully describes the proposed source, the means for prevention or control of the emissions or air contaminants, the appropriate fee as required by Section 6.04, and of this regulation. Notice of Construction applications shall also include any

additional information required ~~by the Board or Control Officer to~~ to demonstrate that the ~~proposed source will meet the requirements of Section 6.07~~ requirements of this Article are met. Notice of Construction applications shall also include an environmental checklist or other documents demonstrating compliance with the State Environmental Policy Act.

~~(d) Within 30 days of receipt of a Notice of Construction and Application for Approval, the Agency shall notify the applicant in writing if any additional information is necessary to complete the application.~~

SECTION 6.04 NOTICE OF CONSTRUCTION ~~REVIEW~~ FEES Adopted 10/10/73 (214)
Revised 12/12/73 (218), 11/21/74 (285), 03/13/80 (461), 02/13/86 (597), 06/09/88 (621), 05/11/89 (643), 11/14/91 (710), 09/10/92 (734),
11/19/92 (738), 07/08/93 (756), 10/28/93 (765), 09/12/96 (839), 12/12/96 (842), 09/11/97 (856), 03/11/99 (880), 07/12/01 (944),
05/23/02 (969), 05/22/03 (992), 06/23/05 (1045), 03/23/06 (1064), 05/22/08 (1118), 09/22/11 (1221), 05/24/12 (1243)

(a) A Notice of Construction ~~and Application for Approval~~ application is incomplete until the Agency has received ~~a fee~~ fees as shown below:

Filing Fee (for each application, to be paid prior to any review)..... \$1,150

~~General (not classified below) for each Piece of Equipment or Control~~

~~Equipment \$500~~

~~Minor NOC Change \$500~~

~~NOC Applicability Determination \$200~~

Coffee Roaster (less than 40 pounds/batch, with thermal oxidizer) \$600

~~Coffee Roaster \$1,000~~

Hot Mix Asphalt Batch Plant.....\$8,000

~~Asphalt Concrete Plant..... \$1,000~~

Soil Thermal Desorption Unit..... \$5,000

~~Soil Thermal Desorption Unit (initial) \$3,000~~

Electric Generation Project: (combined heat input capacity)

10 - 100 million Btu/hr \$5,000

101 - 250 million Btu/hr \$10,000

>250 million Btu/hr\$25,000

Composting Facility\$10,000

~~Composting Facility \$2,500~~

Commercial Solid Waste Handling Facility \$10,000

Landfill Gas System..... \$2,500

~~Landfill Gas System \$2,500~~

<u>Refuse Burning Equipment: (rated charging capacity)</u>	
<u>≤12 tons per day</u>	<u>\$5,000</u>
<u>>12 tons and ≤250 tons per day</u>	<u>\$20,000</u>
<u>>250 tons per day</u>	<u>\$50,000</u>

~~Refuse Burning Equipment: (rated capacity)~~

12 tons per day or less.....	\$5,000
greater than 12 tons per day but less than 250 tons per day	\$20,000
250 tons per day or greater.....	\$50,000

Other (not listed above) for each Piece of Equipment
and Control Equipment \$600

~~Relocation of Approved Desorption Unit to New Address.....~~ ~~\$1,000~~

~~Additional Charges:~~

Additional Charges (for each application):

SEPA Threshold Determination..... \$800
(DNS, under Regulation I, Section 2.04)

SEPA Threshold Determination \$4,000
(MDNS, under Regulation I, Section 2.07)

~~SEPA Threshold Determination... ..~~ ~~\$250~~

Document Collection to Support Conclusion that
SEPA Requirements were met by a Previous
Environmental Review (not provided by applicant) \$800
(See WAC 197-11-600)

Public Notice..... \$700
(under WAC 173-400-171) (+ publication costs)

~~Public Notice (plus publication fees)~~ ~~\$500~~

Public Hearing \$2,000
(under WAC 173-400-171) (+ publication costs, if
separate public notice)

NSPS or NESHAP \$1,000
(per subpart of 40 CFR Parts 60, 61, and 63)

~~Emissions Units Subject to an NSPS or NESHAP
(except residential wood heaters, asbestos renovation or
demolition, and perchloroethylene dry cleaning)~~ ~~\$1,000~~

Iterative Screening Dispersion Modeling

<u>Analysis by Agency (not provided by applicant)</u>	<u>\$1,000</u>
<u>(under Regulation III, Section 2.07(c)(1)(B))</u>	
<u>Refined Dispersion Modeling Analysis Review</u>	<u>\$1,000</u>
<u>(under Regulation III, Section 2.07(c)(1)(C))</u>	
Air Toxics Review (under Regulation III, Section 2.07(c)(2))	\$500
Air Toxics Review (under Regulation III, Section 2.07(c)(3))....	\$5,000
<u>Major Source, Major Modification, or</u>	
<u>Emission Increases Greater than Prevention</u>	
<u>of Significant Deterioration (PSD) Thresholds</u>	<u>\$5,000</u>
	<u>(+ Ecology fees)</u>
—Major Source, Major Modification, or Emission Increases	
—greater than Prevention of Significant Deterioration	
—Thresholds (see Regulation I, Section 6.07(d)).....	\$5,000
<u>An Agency request for an Inapplicability</u>	
<u>Determination for PSD Program Requiring</u>	
<u>Written Applicability Determination from Ecology</u>	<u>\$5,000</u>
	<u>(+ Ecology fees)</u>
<u>Establishing Voluntary Limits on Emissions for</u>	
<u>Synthetic Minor Source Status, Concurrent</u>	
<u>with Notice of Construction Application Review</u>	<u>\$2,000</u>
<u>(See WAC 173-400-091)</u>	
<u>Construction or Reconstruction of a</u>	
<u>Major Source of Hazardous Air Pollutants</u>	
<u>(see 40 CFR 63.2)</u>	<u>\$2,500</u>
<u>Tier II Air Toxics Review.....</u>	<u>\$5,000</u>
<u>(under WAC 173-460-090)</u>	<u>(+ Ecology fees)</u>
<u>Opacity/Grain Loading Correlation.....</u>	<u>\$5,000</u>
—Opacity/Grain Loading Correlation (see Regulation I, Section 9.09(e))..	\$5,000

- (b) A notification under Section 6.03(b)(1) through Section 6.03(b)(9) and 6.03(b)(11) of this regulation is incomplete until the Agency has received a fee of \$200. An application processed as a Notice of Construction exemption under Section 6.03(b)(10) requires payment of the Notice of Construction filing fee only. An application for coverage under a general order of approval issued by this Agency is not subject to the fees in Section 6.04(a) and instead requires payment of a \$500 fee, which is due prior to any review of the application.

Dry Cleaner (per machine)	\$300
Gasoline Station.....	\$500

~~Relocation of Previously Permitted Portable Source to a New~~

~~Address, except soil thermal desorption units..... \$500~~

~~Spray Painting Operation (per booth) \$500~~

~~Storage Tanks excluding those at gasoline stations: (gallons)~~

~~less than 20,000 \$300~~

~~20,000 or more \$1,000~~

(c) The Control Officer is authorized to enter into a written cost-reimbursement agreement with an applicant as provided in RCW 70.94.085.

(d) Additional Fee for Service – Second Incomplete Application

Upon receipt of a second incomplete Notice of Construction application from the same applicant for the same project, the Control Officer may cease review of the application and provide written notification of that determination. The Control Officer may resume review of the application if, within 30 days of the date of the notification describing the Agency's receipt of the second incomplete Notice of Construction application, the applicant has deposited \$1,000 with the Agency, and executed a fee-for-service agreement with the Agency that allows the Agency to recover the reasonable direct and indirect costs that arise from processing the Notice of Construction application, including the requirements of other relevant laws such as the Washington State Environmental Policy Act (SEPA).

The agreement shall require that the applicant assume full responsibility for paying the Agency for the costs incurred under the fee-for-service agreement. The Agency shall credit the \$1,000 deposit made by the applicant towards the costs required by a fee-for-service agreement. The fee-for-service agreement may require the applicant to make progress payments during the application review period. The \$1,000 deposit referred to in this section and the costs provided for in a fee-for-service agreement are in addition to the fees required in Section 6.04(a).

If the applicant has not made a \$1,000 deposit and executed such a fee-for-service agreement within 30 days of the date of the notification from the Agency describing its receipt of a second incomplete application, the Agency may issue an Intent to Disapprove an Application.

The \$1,000 deposit required under this section is not refundable. In addition, any payments made to the Agency under a fee-for-service agreement are not refundable.

(e) Additional Fee – Revised Application

The Control Officer may assess an additional fee for processing a Notice of Construction application when a subsequent significantly revised application is submitted after the original application was determined to be complete and prior to the Agency issuing an Order of Approval or Intent to Disapprove an Application regarding the original application. The revision fee shall be the

amount of the fee that was charged for the original Notice of Construction application, including the filing fee. The resulting total fee is the fee for the original Notice of Construction application plus the revision fee.

~~SECTION 6.06 PUBLIC NOTICE~~ *as adopted: 4/14/94*

~~(a) The Agency shall provide public notice for any proposed Order of Approval if:~~

~~(1) The proposed installation or modification would increase the emissions of any air contaminant by more than the following:~~

Air Contaminant	Tons/Year
Carbon Monoxide.....	100.0
VOC.....	40.0
Nitrogen Oxides.....	40.0
PM10.....	15.0
Sulfur Dioxide.....	40.0
Lead.....	0.6
Fluorides.....	3.0
Sulfuric Acid.....	7.0
Total Reduced Sulfur.....	10.0

~~(2) The applicant requests a limit on the potential to emit;~~

~~(3) The applicant requests to bank emission reduction credits;~~

~~(4) The applicant requests approval of a risk analysis;~~

~~(5) The proposed installation or modification involves refuse burning equipment; or~~

~~(6) The Control Officer determines that there may be substantial public interest in the proposal.~~

~~(b) Public notice shall be published in a newspaper of general circulation in the area of the proposed project and shall include the following:~~

~~(1) The name and address of the owner or operator and the facility;~~

~~(2) A brief description of the proposal;~~

~~(3) The locations at which copies of the preliminary determination and a summary of information considered in making such preliminary determination are available for public inspection;~~

~~(4) The deadline for submitting written comment; and~~

- ~~(5) That a public hearing may be held if the Agency determines within a 30-day period that significant public interest exists.~~
- ~~(c) Notice shall also be sent to the U.S. Environment Protection Agency Regional Administrator.~~
- ~~(d) The cost of providing public notice shall be borne by the applicant.~~
- ~~(e) The Agency shall not make a final decision on any application until the public comment period has ended and any comments received have been considered. Unless a public hearing is held, the public comment period shall be the 30-day period for written comment published as provided above. If a public hearing is held, the public comment period shall extend through the hearing date.~~
- ~~(f) The applicant, any interested governmental entity, any group, or any person may request a public hearing within the 30-day period published as provided above. Any such request shall indicate the interest of the entity filing it and why a hearing is warranted. The Agency may, at its discretion, hold a public hearing if it determines significant public interest exists. Any such hearing shall be held upon such notice and at a time and place as the Agency deems reasonable. The Agency shall provide at least 30 days prior notice of any hearing.~~

~~SECTION 6.07 ORDER OF APPROVAL—ORDER TO PREVENT CONSTRUCTION~~

~~as adopted: 4/14/94~~

- ~~(a) Within 60 days of receipt of a complete Notice of Construction and Application for Approval, or as promptly as possible after the close of the public comment period if subject to the public notice requirements of Section 6.06 of this Regulation, the Board or Control Officer shall issue an Order of Approval or an Order to Prevent Construction. A person seeking approval to construct or modify a source that requires an operating permit may elect to integrate review of the operating permit application or amendment required by Article 7 of this Regulation provided that any such application shall be processed in accordance with the operating permit program procedures and deadlines.~~
- ~~(b) An Order of Approval may provide such conditions of operation as are reasonably necessary to assure compliance with all applicable emission standards.~~
- ~~(c) No Order of Approval shall be issued unless the Notice of Construction and Application for approval demonstrates to the Board or Control Officer that:
 - ~~(1) The operation of the source at the location proposed will not cause or contribute to a violation of an ambient air quality standard;~~~~

- ~~(2) The source will meet the requirements of all applicable emission standards;~~
- ~~(3) Best available control technology is employed for the installation of new sources and the modification of existing sources; and~~
- ~~(4) Reasonably available control technology is employed for the replacement of existing control equipment.~~
- ~~(d) No Order of Approval shall be issued for a new major source or major modification in a nonattainment area unless the Notice of Construction and Application for Approval also demonstrates to the Board or Control Officer that:~~
 - ~~(1) For those air contaminants for which the area is designated nonattainment, lowest achievable emission rate is employed for each new source at a new major source, and each new or modified source involved in a major modification;~~
 - ~~(2) All existing major sources owned or operated by the applicant in the state of Washington are in compliance with all applicable emission standards under the federal Clean Air Act or are on an approved compliance schedule;~~
 - ~~(3) Offsets in the form of emission reduction credits (banked pursuant to Section 6.08 of this Regulation) in an amount greater than or equal to 1.10 times the proposed total allowable emissions from the new major source, or the increase from current actual emissions to the proposed total allowable emissions for a major modification, have been obtained from sources in the same nonattainment area and occur by the time the new major source or major modification begins operation; and~~
 - ~~(4) The benefits of the proposed new major source or major modification significantly outweigh the environmental and social costs imposed as a result of its location, installation, or modification. (This demonstration, which shall include an analysis of alternative sites, sizes, production processes, and environmental control techniques, may be in the form of an environmental impact statement prepared under the State Environmental Policy Act or the National Environmental Policy Act.)~~
- ~~(e) No Order of Approval shall be issued for a new or modified source of toxic air contaminants, except for sources exempted by Section 2.01 of Regulation III, unless the Notice of Construction and Application for Approval demonstrates to the Board or Control Officer that:~~
 - ~~(1) The toxic air contaminant emissions from the source will not result in the exceedance of any acceptable source impact level listed in Appendix A of Regulation III; or~~

- ~~(2) The emissions from the source will not cause air pollution. This demonstration shall be performed in accordance with the Agency "Guidelines for Evaluating Sources of Toxic Air Contaminants" and requires approval from the Department of Ecology.~~
- ~~(f) An Order of Approval shall expire unless the owner or operator has commenced construction of the source within 18 months of the date of its issuance or if construction is discontinued for a period of more than 18 months.~~
- ~~(g) An Order to Prevent Construction shall set forth the objections in detail with references to the provisions of this Regulation that would not be met. Such Order shall become final unless, no later than 15 days after the date the Order is served, the applicant petitions for a reconsideration of the Order, with reasons for the reconsideration. The Control Officer shall consider the petition, and shall within 30 days give written Order of Approval or final disapproval of the Notice of Construction setting forth the reasons for disapproval.~~

~~SECTION 6.08 EMISSION REDUCTION CREDIT BANKING~~ *as adopted: 11/19/92*

- ~~(a) Banking of emission reductions in ton per year increments that result from improved process or control techniques, source shutdowns, or curtailments shall be allowed by written permission of the Board or Control Officer if formally requested within 180 days of the issuance of an Order of Approval or other action taken to effect an emission reduction. A fee of \$50 per ton shall be paid upon the filing of a request to bank emission reduction credits.~~
- ~~(b) The baseline from which to calculate an emission reduction credit shall be the source's actual emissions, or allowable emissions, whichever is smaller.~~
- ~~(c) Permission to bank shall constitute receipt of legal title to an emission reduction credit within the provisions of this section. The sale or transfer of emission reduction credits is allowed provided prior approval is granted by the Board or Control Officer, based solely on a certification of valid title to the credits. A request to sell or transfer emission reduction credits must be notarized by the applicant and signed by all parties to the transaction.~~
- ~~(d) The Board or Control Officer shall establish conditions for each emission reduction credit as needed to ensure the permanence and federal enforceability of the reduction. The conditions shall be listed in a Certificate of Title issued by the Board or Control Officer. No credits shall be used if any of the conditions are being violated. Sale or transfer of the credits shall not relieve the owner of the source which created the credits from any of the conditions. If, after credits are sold, transferred, or used, the conditions are violated and this results in an emission increase, the Board or Control Officer may require~~

~~the owner of the source which created the credits to replace that amount of credit through additional emission reductions or the purchase or use of emission reduction credits already banked.~~

~~(e) Emission reduction credits must be committed for use pursuant to Section 6.07(d) within a period of 5 years.~~

~~(f) If reductions in emissions beyond those already identified in the State Implementation Plan are required to attain a national ambient air quality standard, and the standard cannot be met through controls on operating sources, emission reduction credits for that pollutant may be discounted on a temporary or permanent basis by the Board after public hearing.~~

SECTION 6.09 NOTICE OF COMPLETION

Adopted 03/13/68 (12)

Revised 02/13/86 (597), 11/19/92 (738), 04/14/94 (784), [07/12/01 \(944\)](#), [03/25/04 \(1024\)](#)

Within 30 days of completion of the installation or modification of ~~an air contaminant~~[a stationary](#) source subject to the provisions of ~~Section~~[Article 6.03](#) of this ~~Regulation~~[regulation](#), the owner or operator or applicant shall file a Notice of Completion with the Agency. Each Notice of Completion shall be submitted on a form provided by the Agency, and shall specify the date upon which operation of the [stationary](#) source has commenced or will commence.

SECTION 6.10 WORK DONE WITHOUT AN APPROVAL

Adopted 11/12/87 (616)

Revised 07/08/93 (756), 09/11/97 (856), [07/12/01 \(944\)](#)

Where work for which ~~a Notice~~[an Order](#) of ~~Construction~~[Approval](#) is required is commenced or performed prior to making application and receiving approval, the Control Officer may conduct an investigation as part of the Notice of Construction review. In such a case, an investigation fee, in addition to the fees of Section 6.04, shall be assessed in an amount equal to 3 times the fees of Section 6.04. Payment of the fees does not relieve any person from the requirement to comply with the regulations nor from any penalties for failure to comply.

SECTION 6.11 NEW SOURCE PERFORMANCE STANDARDS

Adopted 08/12/93 (760)

Revised 09/08/94 (798), 09/14/95 (821), 09/12/96 (839), 09/11/97 (856), 09/10/98 (870), 09/09/99 (895), 07/13/00 (925), 09/13/01 (954), 09/26/02 (978)

It shall be unlawful for any person to cause or allow the operation of any source in violation of any provision of Part 60, Title 40, of the Code of Federal Regulations (excluding Subparts B, S, BB, and AAA) in effect as of the federal regulation reference date listed in Section 3.25 of this regulation herein incorporated by reference.

~~REGULATION I~~—ARTICLE 7: OPERATING PERMITS

SECTION 7.01 PURPOSE Adopted 10/28/93 (766)

The purpose of this article is to provide for a comprehensive operating permit program consistent with the requirements of Title V of the federal Clean Air Act Amendments of 1990 and its implementing regulation 40 CFR Part 70, and RCW 70.94.161 and its implementing regulation Chapter 173-401 of the Washington Administrative Code.

SECTION 7.03 APPLICABILITY Adopted 10/28/93 (766), Revised 09/09/99 (895), 07/22/04 (1031)

The provisions of this article apply to all Chapter 401 sources subject to the requirements of chapter 173-401 WAC.

SECTION 7.05 COMPLIANCE Adopted 10/28/93 (766)

It shall be unlawful for any person to cause or allow the operation of any source subject to the requirements of WAC 173-401 without complying with the provisions of WAC 173-401 and any permit issued under its authority.

SECTION 7.07 OPERATING PERMIT FEES Adopted 10/28/93 (766) Revised 09/08/94 (798), 09/14/95 (821), 09/12/96 (839), 09/11/97 (856), 09/10/98 (871), 09/09/99 (894), 07/13/00 (925), 06/14/01 (946), 10/11/01 (957), 05/23/02 (970), 05/22/03 (995), 07/22/04 (1031), 05/22/08 (1119), 05/24/12 (1244), 09/26/13 (1286)

- (a) The Agency shall assess annual operating permit fees as set forth in Section 7.07(b) below to cover the cost of administering the operating permit program.
- (b) Upon assessment by the Agency, the following annual operating permit fees are due and payable within 45 days of the invoice date. They shall be deemed delinquent if not fully paid within 90 days of the date of the invoice and will be subject to an additional delinquent fee equal to 25% of the original fee, not to exceed \$6,500. In addition, persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than 90 days late with such payments may be subject to a penalty equal to 3 times the amount of the original fee owed (in addition to other penalties provided by chapter 70.94 RCW).
 - (1) Sources in the following North American Industry Classification System (NAICS) codes (*North American Industry Classification System Manual*, U.S. Executive Office of the President, Office of Management and Budget, 1997), or sources subsequently determined by the control officer to be assigned to either Section 7.07(b)(1)(i) or 7.07(b)(1)(ii) shall be subject to the following facility fees:

(i) Operating permit sources with the following NAICS codes:

NAICS	NAICS Description Fee
221112	Fossil Fuel Electric Power Generation
324110	Petroleum Refineries
327213	Glass Container Manufacturing
327310	Cement Manufacturing
331110	Iron and Steel Mills and Ferroalloy Manufacturing
336411	Aircraft Manufacturing
336413	Other Aircraft Parts and Auxiliary Equipment Manufacturing
928110	National Security
 \$57,200

(ii) Operating permit sources with the following NAICS codes:

NAICS	NAICS Description Fee
311119	Other Animal Food Manufacturing
311812	Commercial Bakeries
321912	Cut Stock, Resawing Lumber, and Planing
321918	Other Millwork (including Flooring)
321999	All Other Miscellaneous Wood Product Manufacturing
322220	Paper Bag and Coated and Treated Paper Manufacturing
326140	Polystyrene Foam Product Manufacturing
327121	Brick and Structural Clay Tile Manufacturing
332996	Fabricated Pipe and Pipe Fitting Manufacturing
 \$14,300

(iii) Operating permit sources with NAICS codes
other than listed above..... \$28,600

- (2) Additional emission rate fees shall be paid in addition to the annual operating permit fees of Section 7.07(b)(1):
 - \$30 for each ton of CO reported in the previous calendar year, and
 - \$60 for each ton of NOx reported in the previous calendar year, and
 - \$60 for each ton of PM10 reported in the previous calendar year, and
 - \$60 for each ton of SOx reported in the previous calendar year, and
 - \$60 for each ton of VOC reported in the previous calendar year, and
 - \$60 for each ton of HAP reported in the previous calendar year.
- (c) In addition to the fees under Sections 7.07(b)(1) and (b)(2) above, the Agency shall, on a source-by-source basis, assess the following fees:
 - (1) \$500 for administrative permit amendments [WAC 173-401-720], and
 - (2) for minor permit modifications [WAC 173-401-725(2) and (3)], a fee equal to 10% of the annual operating permit fee, not to exceed \$6,500, and
 - (3) for the original issuance [WAC 173-401-700], significant modification [WAC 173-401-725(4)], reopening for cause [WAC 173-401-730], or renewal [WAC 173-401-710] of an operating permit, a fee equal to 20% of the annual operating permit fee, not to exceed \$13,000, and
 - (4) to cover the costs of public involvement under WAC 173-401-800, and
 - (5) to cover the costs incurred by the Washington State Department of Health in enforcing 40 CFR Part 61, Subpart I and chapter 246-247 WAC.
- (d) In addition to the fees described under Sections 7.07(b) and (c) above, the Agency shall collect and transfer to the Washington State Department of Ecology a surcharge established by the Department of Ecology under chapter 173-401 WAC to cover the Department of Ecology's program development and oversight costs.
- (e) Continued payment to the Agency of the annual operating permit fee maintains the operating permit and the status of the source as an operating facility.

SECTION 7.09 GENERAL REPORTING REQUIREMENTS FOR OPERATING PERMITS

Adopted 09/12/96 (839)
Revised 09/11/97 (856), 09/10/98 (870), 09/25/08 (1133), 12/15/16 (1356)

- (a) **Emission Reporting.** An emission report shall be required from each owner or operator of an operating permit source, listing those air contaminants emitted during the previous calendar year that equal or exceed the following (tons/year):

carbon monoxide (CO) emissions.....	25
facility combined total of all toxic air contaminant (TAC) emissions	6
any single toxic air contaminant (TAC) emissions <u>(excluding lead, but including lead compounds)</u>	2
nitrogen oxide (NOx) emissions	25
particulate matter (PM10) emissions	25
particulate matter (PM2.5) emissions	25
sulfur oxide (SOx) emissions	25
volatile organic compounds (VOC) emissions	25
<u>lead</u>	0.5

Annual emission rates shall be reported to the nearest whole tons per year for only those air contaminants that equal or exceed the thresholds above, except lead which must be reported to the nearest tenth of a ton. The owner or operator of a source requiring a Title V operating permit under this Article shall maintain records of information necessary to document any reported emissions or to demonstrate that the emissions were less than the above amounts.

- (b) **Operation and Maintenance Plan.** Owners or operators of air contaminant sources subject to ~~Regulation I~~ Article 7 of this regulation shall develop and implement an operation and maintenance plan to assure continuous compliance with Regulations I, II, and III. A copy of the plan shall be filed with the Control Officer upon request. The plan shall reflect good industrial practice and shall include, but not be limited to, the following:

- (1) Periodic inspection of all equipment and control equipment;
- (2) Monitoring and recording of equipment and control equipment performance;
- (3) Prompt repair of any defective equipment or control equipment;
- (4) Procedures for start up, shut down, and normal operation;
- (5) The control measures to be employed to assure compliance with Section

9.15 of ~~Regulation I~~this regulation; and

(6) A record of all actions required by the plan.

The plan shall be reviewed by the source owner or operator at least annually and updated to reflect any changes in good industrial practice.

(c) **Compliance Reports.** After June 30, 2009, owners or operators of air contaminant sources subject to Article 7 of this regulation shall submit complete copies of all required compliance reports to this Agency in electronic format as an attachment to an e-mail message. The date the document is received by the Agency e-mail system shall be considered the submitted date of the report. Original written documents shall also be submitted for record purposes. Nothing in this section waives or modifies any requirements established under other applicable regulations.

~~REGULATION I~~—ARTICLE 8: OUTDOOR BURNING

SECTION 8.04 GENERAL CONDITIONS FOR OUTDOOR BURNING

Adopted 03/18/76 (361)

Revised 01/12/89 (639), 04/09/92 (724), 04/14/94 (783), 10/08/98 (873), 03/11/99 (881), 11/09/00 (933), 09/25/08 (1134)

- (a) The provisions of ~~Chapter~~Chapters 173-425 WAC (Outdoor Burning) and 173-430 WAC (Agricultural Burning) are herein incorporated by reference. It shall be unlawful for any person to cause or allow any outdoor burning unless the burning is in compliance with ~~Chapter~~Chapters 173-425 and 173-430 WAC.
- (b) The provisions of Sections 9.05 and 9.15 of Regulation I shall not apply to outdoor burning.
- (c) Nothing contained in Article 8 shall be construed to allow outdoor burning in those areas in which outdoor burning is prohibited by laws, ordinances, or regulations of the state or any city, county, or fire district.
- (d) Nothing contained in Article 8 shall relieve the applicant from obtaining permits required by any state or local fire protection agency or from compliance with the ~~Uniform~~ Fire Code.

SECTION 8.05 AGRICULTURAL BURNING PERMITS

Adopted 02/08/96 (825)

Revised 11/09/00 (933), 09/25/08 (1134), 10/28/10 (1199), 09/27/12 (1255)

- (a) **Applicability.** This section applies to burning permits related to agricultural operations. The definitions and requirements contained in ~~Chapter~~chapter 173-430 WAC also apply to this section; provided that if there is a conflict between this section and chapter 173-430 WAC, this section governs.
- (b) **General Requirements.** Agricultural burning will be permitted if the following requirements are met:
 - (1) The natural vegetation being burned is generated from the property of the commercial agricultural operation; and
 - (2) Burning is necessary for crop propagation or rotation, disease or pest control; and
 - (3) Burning is a best management practice as established by the Agricultural Burning Practices and Research Task Force (established in RCW 70.94.~~650~~6528 as referenced in ~~WAC~~chapter 173-430-~~050~~ WAC); or the burning practice is approved in writing by the Washington State Cooperative Extension Service or the Washington State Department of Agriculture; or the burning is conducted by a governmental entity with specific agricultural burning needs, such as irrigation districts, drainage districts, and weed control boards; and
 - (4) The proposed burning will not cause a violation of any Agency regulation.
- (c) **Permit Applications.** Agricultural burning permits shall be approved by the

Agency prior to burning.

- (1) The permit application shall be submitted on forms provided by the Agency and shall include:
 - (A) ~~(4)~~ A copy of the applicant's most recent year's Schedule F (as filed with the Internal Revenue Service);
 - (B) ~~(2)~~ A written review by the local fire district or fire marshal indicating their endorsement that local requirements have been met; and
 - (C) ~~(3)~~ A ~~non-refundable~~ permit fee as required below:
 - ~~(A) For burning up to 10 acres (or equivalent), the fee is \$25.00 (base fee);~~
 - ~~(B) For burning over 10 acres, the fee is \$25.00 plus \$2.50 for each additional acre.~~

<u>Burn Type</u>	<u>Minimal Fee</u>	<u>Variable Fee</u>
(i) <u>Field Burning</u> <u>of vegetative residue on</u> <u>an area of land used in an</u> <u>agricultural operation.</u> <i>(does not include pile burning)</i>	<u>\$37.50 for the first 10 acres.</u>	<u>\$3.75 for each additional</u> <u>acre.</u>
(ii) <u>Spot Burning</u> <u>of an unforeseen and</u> <u>unpredicted small area</u> <u>where burning is reason-</u> <u>ably necessary and no</u> <u>practical alternative to</u> <u>burning exists.</u>	<u>\$37.50 for 10 acres or less.</u>	<u>None.</u>
(iii) <u>Pile Burning</u> <u>of stacked vegetative resi-</u> <u>due from an agricultural</u> <u>operation.</u>	<u>\$80 for the first 80 tons.</u>	<u>\$1.00 for each additional</u> <u>ton.</u>

(2) Any refunds of the variable fee portion of a permit fee are issued in accordance with chapter 173-430 WAC.

(d) Permit Action and Content.

- (1) The Agency will act on a complete application within 7 days of receipt.
- (2) All agricultural burning permits shall contain conditions that are necessary to minimize emissions.
- (3) All permits shall expire 12 months from date of issuance.

(di) Permit Denial. ~~No permit shall be issued if the Agency determines that the~~

~~proposed burning will cause a nuisance.~~ All denials shall become final within 15 days unless the applicant petitions the Control Officer for reconsideration, stating the reasons for reconsideration. The Control Officer shall then consider the petition and shall within 30 days issue a permit or notify the applicant in writing of the reason(s) for denial. (For more information on the appeal process, see Section 3.17 of this regulation.)

~~REGULATION I~~ SECTION 8.06 OUTDOOR BURNING OZONE CONTINGENCY MEASURE

Adopted 12/19/02 (976)

(a) **Applicability.** This section shall apply to open burning within King, Kitsap, Pierce, and Snohomish Counties if, in consultation with the Washington State Department of Ecology and the Agency, the U.S. Environmental Protection Agency makes a written finding that:

- (1) A quality-assured violation of the national ambient air quality standard for ozone has occurred, and
- (2) Prevention of future violations can be reasonably addressed through the implementation of this section.

The Agency shall provide public notice of this written finding no later than November 1. This section shall take effect on July 1 following the public notice of such a written finding.

(b) It shall be unlawful for any person to cause or allow outdoor burning within King, Kitsap, Pierce, or Snohomish Counties during the months of July through August.

SECTION 8.07 FIRE EXTINGUISHER TRAINING Adopted 02/08/96 (825) Revised 03/13/97 (849), 09/09/99 (895)

(a) **Applicability.** This section applies to small, short-duration fires for teaching the proper use of hand-held fire extinguishers.

(b) **General Requirements.** Hand-held fire extinguisher training may be conducted provided the following requirements are met:

- (1) Training shall not occur during any stage of an air pollution episode or period of impaired air quality;
- (2) Flammable or combustible materials used during the fire extinguisher training shall be limited to:
 - (A) Less than 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 marshals, or fire districts;
 - (B) As much gaseous fuel (propane or natural gas) as required for the training exercise; or
 - (C) Less than 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 computer paper.

- (3) All training must be conducted by local fire officials or a qualified instructor. Instructor qualifications and a training plan must be available to the Agency upon request;
- (4) Prior to the training, the person(s) conducting the exercise must notify the local fire department, fire marshal, or fire district and must meet all applicable local ordinances and permitting requirements; and
- (5) Person(s) conducting hand-held fire extinguisher training shall be responsible for responding to citizen inquiries and resolving citizen complaints caused by the training activity.

SECTION 8.08 FIRE DEPARTMENT TRAINING EXERCISES

Adopted 02/08/96 (825)

Revised 09/09/99 (895), 05/28/09 (1147)

- (a) **Applicability.** This section applies to structural fires set by fire departments, fire marshals, vocational schools, or fire districts for training fire fighters under realistic conditions.
- (b) **General Requirements.** Fire departments, fire marshals, vocational schools, or fire districts may conduct structural fire training provided all of the following requirements are met:
 - (1) The fire training shall not occur during any stage of an air pollution episode or period of impaired air quality;
 - (2) All asbestos-containing material shall be removed from the structure prior to demolition/training in accordance with Regulation III, Section 4.04 and copies of the asbestos AHERA survey and Agency notification shall be kept on-site during the demolition/training exercise;
 - (3) The fire department, fire marshal, vocational school, or fire district conducting the fire training must have a fire-training plan available to the Agency upon request, and the purpose of the structural fire must be to train fire fighters;
 - (4) Composition roofing, asphalt roofing shingles, asphalt siding materials, miscellaneous debris from inside the structure, carpet, linoleum, and floor tile must not be burned. These materials must be lawfully removed from the structure and disposed of in a lawful manner prior to the training exercise;
 - (5) Nuisance complaints or citizen inquiries relating to any training fire shall be resolved by the fire departments, fire marshals, vocational schools, or fire districts conducting the training fire; and
 - (6) The fire departments, fire marshals, vocational schools, or fire districts conducting the training fire shall obtain any permits, licenses, or other approvals required by any entity for such training fires. All permits, licenses, and approvals must be kept on-site and available for inspection.

SECTION 8.09 DESCRIPTION OF THE KING COUNTY NO-BURN AREA

Adopted 11/09/00 (933), [Revised 02/28/08 \(1112\)](#)

As ~~provided~~[authorized](#) by WAC 173-425-040(5), residential burning and land-clearing burning are prohibited in the following areas of King County [until the dates in Section 8.13 of this regulation](#):

- (a) The King County Urban Growth Area; and
- (b) The former carbon monoxide (CO) non-attainment area (Seattle/Tacoma/Everett urban area as defined by the Washington State Department of Transportation, 1983 version, urban area maps).

SECTION 8.10 DESCRIPTION OF THE PIERCE COUNTY NO-BURN AREA

Adopted 11/09/00 (933), [Revised 02/28/08 \(1112\)](#)

As authorized by WAC 173-425-040(5), residential burning and land-clearing burning are prohibited in the following areas of Pierce County [until the dates in Section 8.13 of this regulation](#):

- (a) The Pierce County Urban Growth Area; and
- (b) The former carbon monoxide (CO) non-attainment area (Seattle/Tacoma/Everett urban area as defined by the Washington State Department of Transportation, 1983 version, urban area maps).

SECTION 8.11 DESCRIPTION OF THE SNOHOMISH COUNTY NO-BURN AREA

Adopted 11/09/00 (933), [Revised 02/28/08 \(1112\)](#)

As authorized by WAC 173-425-040(5), residential burning and land-clearing burning are prohibited in the following areas of Snohomish County [until the dates in Section 8.13 of this regulation](#):

- (a) The Snohomish County Urban Growth Area; and
- (b) The former carbon monoxide (CO) non-attainment area (Seattle/Tacoma/Everett urban area as defined by the Washington State Department of Transportation, 1983 version, urban area maps).

SECTION 8.12 DESCRIPTION OF THE KITSAP COUNTY NO-BURN AREA

Adopted 11/09/00 (933)
Revised 10/24/02 (981)

- (a) As provided by WAC 173-425-040(5), reasonable alternatives to burning exist in the areas described below and residential burning and land-clearing burning are prohibited in these areas.
 - (1) The Kingston Urban Growth Area as shown in Figure 8-1;
 - (2) The City of Bainbridge Island;
 - (3) The Silverdale, Bremerton, Port Orchard area as follows and as shown in Figure 8-2:

- Beginning at the intersection of the line dividing T25N, R2E Sections 18 and 19, and the center line of Port Orchard Bay;
- head directly west to Waaga Way;
- continue west on Waaga Way to Nels Nelson Road NW;
- head north following the Silverdale Urban Growth Area boundary to Island Lake;
- head east following the Silverdale Urban Growth Area boundary to Central Valley Road;
- follow Central Valley Road north to NE Anna Road and then west to Hillcrest Street NW;
- continue north on Central Valley Road to the intersection of T25, R1E, Sections 2 and 3, and T26N, R1E, Sections 34 and 35;
- head directly west to NW Mountain View Road;
- follow NW Mountain View Road to the point where it intersects with the Bangor Naval Reservation boundary;
- follow the Bangor Naval Reservation boundary heading south and west to the point where the Northern Pacific railroad track leaves the Bangor Naval Reservation property at its southern boundary;
- head south along the Northern Pacific railroad track to NW Westgate Road;
- follow NW Westgate Road west to Olympic View Road NW;
- head south on Olympic View Road NW to Anderson Hill Road;
- head west on Anderson Hill Road to Willamette Meridian Road NW;
- head south along the line dividing Township 25 North, Range 1 West and Township 25 North, Range 1 East to the Wesley Harris Naval Reservation;
- head east and south along the perimeter of the Wesley Harris Naval Reservation to a line bisecting T25N, R1E, Section 31;
- follow the line bisecting T25N, R1E, Section 31 east to the Northern Pacific railroad track;
- head south along the Northern Pacific Railroad track to a point where the track crosses the City of Bremerton Urban Growth Area boundary at T24N, R1E between Sections 19 and 30;
- head west along the southwestern portion of the Bremerton city limits for approximately 14 miles to a point 0.2 mile east of the intersection of T23N, R1W, Sections 2, 3, 10, and 11;

- head south to State Highway 3;
- head southwest on State Highway 3 to the Mason County line;
- head east to the line separating T23N, R1W, Sections 22 and 23;
- head north to the intersection of T23N, R1W, Sections 14, 15, 22, and 23;
- head east 1.33 miles;
- head north to State Highway 3;
- head west 0.42 mile;
- head north to the Bremerton city limits;
- head northeast along the Bremerton city limits for approximately 3.6 miles to the intersection of T24N, R1E, Sections 31 & 32 and T23N, R1E, Sections 5 & 6;
- head east another 0.33 mile;
- head south to the intersection of Feigley Road SW and SW Old Clifton Road;
- head east along SW Old Clifton Road to the boundary of the McCormick Woods Urban Growth Area;
- include the entire Urban Growth Area of McCormick Woods;
- at the point where the northeastern boundary of McCormick Woods Urban Growth Area intersects SW Old Clifton Road, follow SW Old Clifton Road northeast to the Port Orchard city boundary;
- start by heading east and follow the Port Orchard city boundary to the point where it intersects with State Highway 16 south of Sedgwick Road;
- head southeast along State Highway 16 to Bethel Road SE;
- head north along Bethel Road SE to the Port Orchard Urban Growth Area boundary;
- start by heading east and follow the Port Orchard Urban Growth Area boundary to the intersection of Sedgwick Road and Phillips Road;
- continue east along SE Sedgwick Road to Longlake Road SE;
- head north along Longlake Road SE to the line between T24N and T23N;
- head west to the intersection of T24N, R2E Sections 31 & 32 and T23N, R2E Sections 5 & 6;
- head north to SE Mile Hill Drive;
- head east along SE Mile Hill Drive to Bullman Road SE;
- head north 0.5 mile along and past Bullman Rd SE;

- head west to SE Horstman Road and continue to Baby Doll Road SE;
 - head north along Baby Doll Road SE to E Collins Road;
 - head west on E Collins Road and then continue west to E Lindstrom Hill Road and then to Sinclair Inlet shoreline;
 - head directly north to the center line of Port Orchard Bay;
 - follow the center line of Port Orchard Bay in a northerly direction to where it intersects the line dividing T25N, R2E Sections 18 and 19; and
- (4) The Poulsbo area as follows and as shown in Figure 8-3:
- (A) The Poulsbo Urban Growth Area (UGA);
- (B) The following areas adjacent to the Poulsbo UGA:
- (i) Southeast of Poulsbo UGA and east of State Highway 305:
 - from the intersection of State Highway 305 and Noll Road NE, proceed north on Noll Road to the Poulsbo UGA;
 - follow the UGA west, north, and west again until it intersects State Highway 305;
 - head south on State Highway 305 to the intersection of State Highway 305 and Noll Road NE.
 - (ii) Northeast of Poulsbo UGA:

That area between the Poulsbo UGA and a line from the northwest corner of the Poulsbo UGA nearest to the southwestern terminus of Gala Way NE, west to the Poulsbo UGA.
 - (iii) North of Poulsbo UGA along State Highway 307:
 - from the intersection of Little Valley Road and State Highway 307, head south to the Poulsbo UGA;
 - follow the UGA west and then north until it intersects State Highway 307;
 - head south on State Highway 307 northeast to the intersection of State Highway 307 and Little Valley Road.
 - (iv) North of Poulsbo UGA and east of State Highway 3:
 - from the intersection of T26N, R1E, Sections 2, 3, 10, and 11 (which is the northeast corner of the Poulsbo UGA nearest the northern terminus of Viking Avenue NE) head east 0.25 mile;
 - head south 0.05 mile to the Poulsbo UGA;
 - head west and then north along the Poulsbo UGA to the intersection of T26N, R1E, Sections 2, 3, 10, and 11.

(v) West of Poulsbo UGA:

- from the intersection of Rhododendron Lane NW and Finn Hill Road, head south to NW Rude Road;
- head east 0.25 mile on Rude Road;
- head south 0.25 mile;
- head east to the Poulsbo UGA;
- head north and northwest along the Poulsbo UGA to the intersection of Finn Hill Road and Rhododendron Lane.

(vi) South of Poulsbo UGA and east of State Highway 3:

- from the intersection of the Poulsbo UGA and Viking Way NW, south of NW Norfinn Lane, head south 0.10 mile on Viking Way NW;
- head east to Liberty Bay;
- follow the shore of Liberty Bay north to the Poulsbo UGA;
- follow the Poulsbo UGA west to Viking Way NW.

- (b) As provided by WAC 173-425-040(5), reasonable alternatives to burning exist in the area described below and land-clearing burning is prohibited in this area.

The Port Orchard area as follows and as shown in Figure 8-2:

- Begin at the intersection of Baby Doll Road SE and SE Mile Hill Drive;
- head east on Mile Hill Drive to Long Lake Road SE;
- head south on Long Lake Road SE to the line between T24N and T23N;
- head west to the intersection of T24N, R2E Sections 31 & 32 and T23N, R2E Sections 5 & 6;
- head north to SE Mile Hill Drive.

Figure 8-1

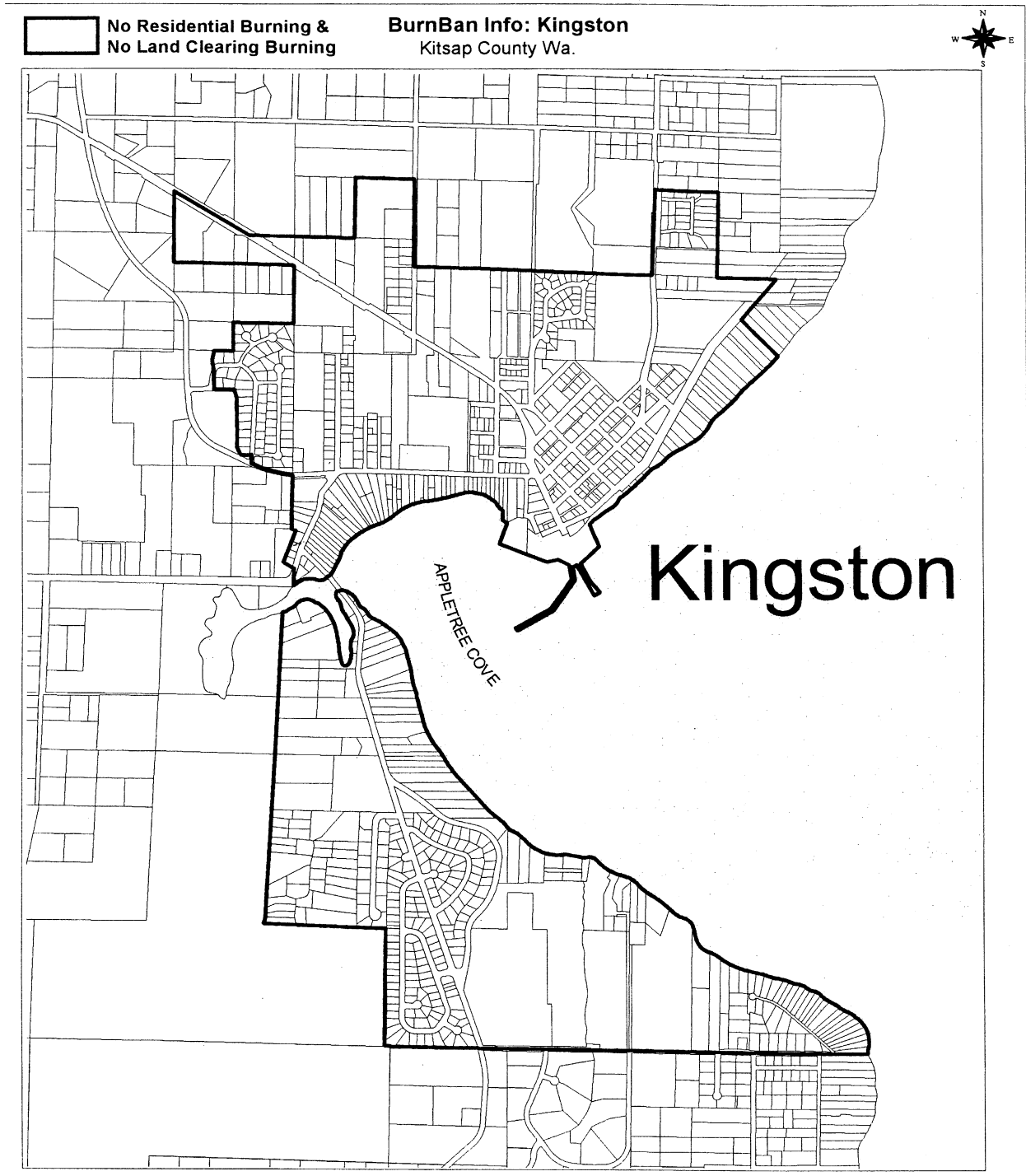
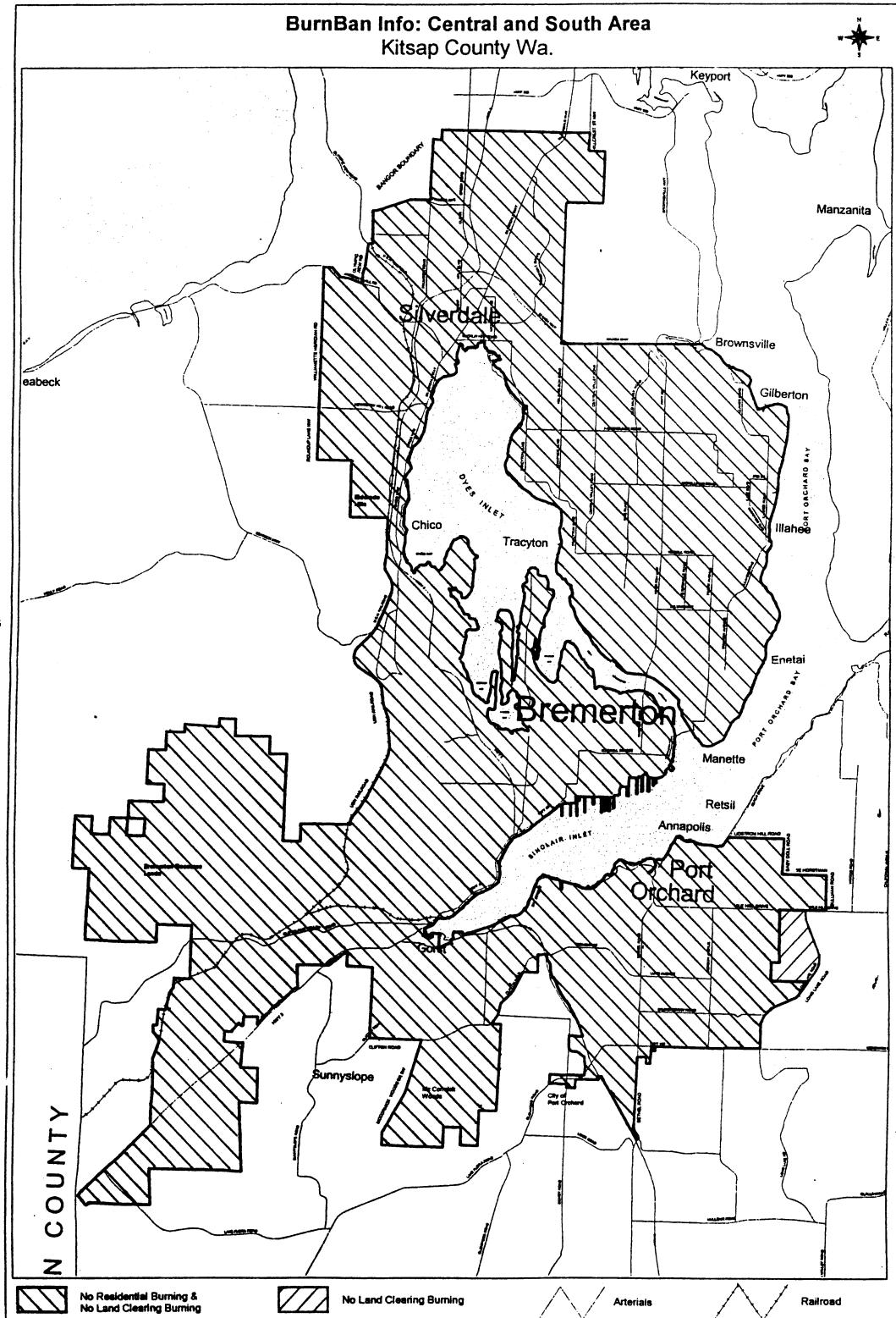
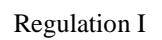


Figure 8-2



1



SECTION 8.13 LAND-CLEARING BURNING PROHIBITED Adopted 02/28/08 (1112)
Revised 04/23/09 (1154)

- (a) As authorized by WAC 173-425-040(5), land-clearing burning is prohibited in King, Pierce, and Snohomish Counties.
- (b) As authorized by WAC 173-425-040(5), land-clearing burning is prohibited in Kitsap County after August 31, 2009.

~~REGULATION I~~—ARTICLE 9: EMISSION STANDARDS

SECTION 9.03 EMISSION OF AIR CONTAMINANT: VISUAL STANDARD

Adopted 03/13/68 (12)

Revised 07/08/70 (126), 04/11/73 (186), 06/09/88 (621) 05/11/89 (643), 09/08/94 (798), 04/09/98 (865), 03/11/99 (881), [03/25/04 \(1024\)](#)

- (a) It shall be unlawful for any person to cause or allow the emission of any air contaminant for a period or periods aggregating more than 3 minutes in any 1 hour, which is:
 - (1) Darker in shade than that designated as No. 1 (20% density) on the Ringelmann Chart, as published by the United States Bureau of Mines; or
 - (2) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in Section 9.03(a)(1).
- (b) The density or 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 of the plume nearest the point of emission.
- (c) This section shall not apply when the presence of uncombined water is the only reason for the failure of the emission to meet the requirements of this section.
- (d) This section shall not apply to solid fuel burning devices, permitted fire training facilities, permitted obscurant usage during military training operations, outdoor fires, motor vehicles when operated on public roads, aircraft, or equipment subject to Section 9.04 [of this regulation](#).
- (e) This section shall not apply to equipment with an alternate opacity standard issued under Section 3.03 or ~~Section~~[Article 6.07 of this regulation](#) that is based upon a correlation with the particulate concentration and that accurately indicates a violation of the applicable particulate emission standards in Section 9.09—[of this regulation](#).

SECTION 9.04 OPACITY STANDARDS FOR EQUIPMENT WITH CONTINUOUS OPACITY MONITORING SYSTEMS

Adopted 04/09/98 (865)

[Revised 03/25/04 \(1024\)](#)

- (a) Applicability. This section shall apply to all equipment required to be equipped with a continuous emission monitoring system for opacity.
- (b) It shall be unlawful for any person to cause or allow the operation of any of the following equipment unless equipped with a continuous emission

monitoring system for opacity:

- (1) Cement kilns;
- (2) Clinker coolers;
- (3) Glass furnaces, rated at greater than 1 ton per hour, that burn fuel;
- (4) Fuel burning equipment, rated at 100 million Btu per hour or greater, that burns wood, coal, or residual oil; and
- (5) Refuse burning equipment rated at greater than 12 tons per day.

(c) It shall be unlawful for any person to cause or allow the emission of any air contaminant from any equipment subject to this section during any hour that:

- (1) Averages greater than 5% opacity; or
- (2) Contains any consecutive 6-minute period averaging greater than 20% opacity.

(d) Section 9.04(c)(1) shall not apply to:

- (1) Glass furnaces that are tested annually for compliance with the applicable particulate emission standard in Section 9.09 [of this regulation](#); or
- (2) Equipment with an alternate opacity standard issued under Section 3.03 or ~~Section~~ [Article 6-07 of this regulation](#) that is based upon a correlation with the particulate concentration and that accurately indicates a violation of the applicable particulate emission standards in Section 9.09 [of this regulation](#).

(e) This section shall not apply to sources controlled by a venturi scrubber, provided that:

- (1) The source is tested annually for compliance with the applicable particulate emission standard in Section 9.09 [of this regulation](#);
- (2) The pressure drop across the scrubber is continuously monitored and recorded; and
- (3) The scrubbing liquid flow rate and temperature are continuously monitored and recorded.

(f) This section shall not apply to fuel burning equipment that burns residual oil less than 31 days per year, provided that the source implements an alternate opacity monitoring plan issued under Section 3.03 or ~~Section~~ [Article 6-07 of this regulation](#).

SECTION 9.05 REFUSE BURNING Adopted 03/13/68 (12)

Revised 06/09/88 (621), 12/09/93 (769)

(a) It shall be unlawful for any person to cause or allow the burning of combustible refuse except in a multiple chamber incinerator provided with control equipment.

- (b) It shall be unlawful for any person to cause or allow the operation of refuse burning equipment any time other than daylight hours.

SECTION 9.07 SULFUR DIOXIDE EMISSION STANDARD Adopted 03/13/68 (12)
Revised 07/08/70 (126), 02/21/74 (230), 02/13/86 (597), 06/09/88 (621), 04/14/94 (784)

It shall be unlawful for any person to cause or allow the emission of sulfur dioxide from any source in excess of 1,000 parts per million by volume on a dry basis, 1-hour average (corrected to 7% oxygen for fuel burning equipment and refuse burning equipment).

SECTION 9.08 FUEL OIL STANDARDS Adopted 06/13/85 (579)
Revised 02/13/86 (597), 04/14/94 (784), [03/25/04 \(1024\)](#)

- (a) It shall be unlawful for any person to cause or allow the combustion of oil in fuel burning equipment or refuse burning equipment that exceeds any of the following limits unless that person has obtained an Order of Approval from the Agency in accordance with ~~Section~~ [Article](#) 6.~~07~~ of this ~~Regulation~~[regulation](#):

Ash	0.1% (maximum)
Sulfur	1.0% (maximum for used oil)
Sulfur	2.00% (maximum for fuel oil)
Lead	100 ppm (maximum)
Arsenic	5 ppm (maximum)
Cadmium	2 ppm (maximum)
Chromium	10 ppm (maximum)
Total Halogens	1,000 ppm (maximum)
Polychlorinated Biphenyls (PCBs)	2 ppm (maximum)
Flash Point	100°F (minimum)

Ash	0.1% (maximum)
Sulfur	1.0% (maximum for used oil)
Sulfur	2.00% (maximum for fuel oil)
Lead	100 ppm (maximum)
Arsenic	5 ppm (maximum)
Cadmium	2 ppm (maximum)
Chromium	10 ppm (maximum)
Total Halogens	1,000 ppm (maximum)
Polychlorinated Biphenyls (PCBs)	2 ppm (maximum)
Flash Point	100°F (minimum)

- (b) It shall be unlawful for any person to sell or make available for sale any oil in excess of the limits of this section to any person who has not obtained an

Order of Approval from the Agency in accordance with ~~Section~~Article 6.07 of this ~~Regulation~~regulation. Any person who sells or makes available for sale such oil shall submit a report to the Agency within 15 days of the end of the month that includes the name and address of the recipient, the amount of oil delivered, and the concentration of contaminants therein.

(c) The provisions of this section shall not apply to:

- (1) Ocean-going vessels;
- (2) Used oil burned in space heaters that have a maximum heat output of not greater than 0.5 million Btu per hour; and
- (3) Persons in the business of collecting used oil from residences when under authorization by a city, county, or the utilities and transportation commission.

SECTION 9.09 PARTICULATE MATTER EMISSION STANDARDS

Adopted 03/13/68 (12)

Revised 07/08/70 (126), 11/10/71 (135), 10/10/73 (214), 02/13/86 (597), 06/09/88 (621), 05/11/89 (643), 02/10/94 (777), 04/09/98 (865)

It shall be unlawful for any person to cause or allow the emission of particulate matter in excess of the following concentrations:

Refuse Burning Equipment:

1. Rated at 12 tons per day or less
without heat recovery and without
hydrochloric acid control equipment 0.10 gr/dscf @ 7% O₂
2. Rated at 12 tons per day or less
without heat recovery and with
hydrochloric acid control equipment 0.05 gr/dscf @ 7% O₂
3. Rated at 12 tons per day or less
with heat recovery 0.02 gr/dscf @ 7% O₂
4. Rated at greater than 12 tons per day 0.01 gr/dscf @ 7% O₂

Fuel Burning Equipment:

1. Burning wood 0.20 gr/dscf @ 7% O₂
2. Burning wood and installed after
March 13, 1968 or located within
the urbanized area..... 0.10 gr/dscf @ 7% O₂
3. Burning wood, rated at 100 million Btu
per hour or greater, and located within
the urbanized area..... 0.04 gr/dscf @ 7% O₂
4. Burning wood and installed after
March 1, 1986..... 0.02 gr/dscf @ 7% O₂

5. Burning fuel other than wood..... 0.05 gr/dscf @ 7% O₂
6. Burning coal or other solid fossil fuel
and installed after March 1, 1986..... 0.01 gr/dscf @ 7% O₂

Equipment Used in a Manufacturing Process: 0.05 gr/dscf

SECTION 9.10 EMISSION OF HYDROCHLORIC ACID Adopted 06/09/88 (621)

- (a) It shall be unlawful for any person to cause or allow the emission of hydrochloric acid from any equipment in excess of 100 ppm on a dry basis, 1-hour average corrected to 7% oxygen for combustion sources.
- (b) It shall be unlawful for any person to cause or allow the emission of hydrochloric acid from any refuse burning equipment rated at greater than 12 tons per day in excess of 30 ppm on a dry basis, 1-hour average corrected to 7% oxygen.

SECTION 9.11 EMISSION OF AIR CONTAMINANT: DETRIMENT TO PERSON OR PROPERTY Adopted 03/13/68 (12)

Revised 06/09/83 (536), 03/11/99 (882)

- (a) 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, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.
- (b) With respect to odor, the Agency may take enforcement action under this section if the Control Officer or a duly authorized representative has documented all of the following:
 - (1) The detection by the Control Officer or a duly authorized representative of an odor at a level 2 or greater, according to the following odor scale:
 - level 0 – no odor detected;
 - level 1 – odor barely detected;
 - level 2 – odor is distinct and definite, any unpleasant characteristics recognizable;
 - level 3 – odor is objectionable enough or strong enough to cause attempts at avoidance; and
 - 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; and
 - (3) The source of the odor.

- (c) Nothing in this Regulation 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.

SECTION 9.13 EMISSION OF AIR CONTAMINANT: CONCEALMENT AND MASKING RESTRICTED

Adopted 03/13/68 (12)
Revised 06/09/88 (621)

- (a) It shall be unlawful for any person to cause or allow the installation or use of any device or use of any means which, without resulting in a reduction in the total amount of air contaminant emitted, conceals an emission of air contaminant which would otherwise violate this article.
- (b) It shall be unlawful for any person to cause or allow the installation or use of any device or use of any means designed to mask the emission of an air contaminant which causes detriment to health, safety or welfare of any person.

SECTION 9.15 FUGITIVE DUST CONTROL MEASURES

Adopted 03/13/68 (12)
Revised 06/09/83 (536), 06/09/88 (621), 08/10/89 (644), 03/11/99 (882)

- (a) 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 include, but are not limited to, the following:
- (1) The use of control equipment, enclosures, and wet (or chemical) suppression techniques, as practical, 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 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.
- (b) Compliance with the provisions of this section shall not relieve any person from the responsibility to comply with Section 9.11 of this regulation.

SECTION 9.16 SPRAY-~~COATING~~ OPERATIONS

Adopted 06/13/91 (700)
Revised 07/08/99 (886), 07/12/01 (944), 02/22/07 (1089), 10/28/10 (1200)

- (a) Applicability. This section applies to indoor and outdoor spray-coating operations ~~at facilities subject to Article 5 (Registration) or Article 7 (Operating Permits) of this regulation, where~~when a coating that protects or beautifies a surface is applied with spray-coating equipment, except as

exempted in Section 9.16(b) of this regulation. Mobile spray-coating operations for motor vehicles or motor vehicle components are subject to Section 9.16(e) of this regulation.

(b) Exemptions. The following activities are exempt from the provisions of Sections 9.16(c)—~~and~~, (d), and (e) of this regulation. Persons claiming any of the following ~~spray-coating~~ exemptions shall have the burden of demonstrating compliance with the claimed exemption.

(1) Application of architectural or maintenance coatings to stationary structures (e.g., bridges, water towers, buildings, stationary machinery, or similar structures);

(2) Aerospace coating operations subject to 40 CFR Part 63, Subpart GG. This includes all activities and materials listed in 40 CFR 63.741(f);

(3) Use of high-volume, low-pressure (HVLP) spray guns when:

(A) spray-coating operations do not involve motor vehicles or motor vehicle components;

(B) the gun cup capacity is 8 fluid ounces or less;

(C) the spray gun is used to spray-coat less than 9 square feet per day per facility;

(D) coatings are purchased in containers of 1 quart or less; and

(E) spray-coating is allowed by fire department, fire marshal, or other government agency requirements.

(4) Use of air-brush spray equipment with 0.5 to 2.0 CFM airflow and a maximum cup capacity of 2 fluid ounces, provided that persons claiming exemption from Section 9.16(e) of this regulation register with the Agency in accordance with Article 5 of this regulation and provide a copy of the current Agency registration document to each new customer before starting work at a site;

(5) Use of hand-held aerosol spray cans with a capacity of 1 quart or less; or

(6) Indoor application of automotive undercoating materials using organic solvents having a flash point in excess of 100-~~°~~F.

(c) General Requirements for Indoor Spray-Coating Operations. It shall be unlawful for any person subject to the provisions of this section to cause or allow spray-coating inside a structure, or spray-coating of any motor vehicles or motor vehicle components, unless ~~the—spray—~~ all of the following requirements are met:

(1) Spray-coating is conducted inside an enclosed spray area—;

(2) The enclosed spray area shall—employemploys either properly seated

paint arresters, or water-wash curtains with a continuous water curtain to control the overspray-; and

(3) All emissions from the spray-coating operation ~~shall be~~ are vented to the atmosphere through an unobstructed vertical exhaust vent.

(d) General Requirements for Outdoor Spray-Coating Operations. It shall be unlawful for any person subject to the provisions of this section to cause or allow spray-coating outside an enclosed structure unless reasonable precautions are employed to minimize the overspray. Reasonable precautions include, but are not limited to the use of:

(1) Enclosures and curtailment during high winds; and

(2) High-volume low-pressure (HVLP), low-volume low-pressure (LVLP), electrostatic, or air-assisted airless spray equipment. Airless spray equipment may be used where low viscosity and high solid coatings preclude the use of higher-transfer efficiency spray equipment.

(e) General Requirements for Mobile Spray-Coating Operations. It shall be unlawful for any person to cause or allow the spray-coating of any motor vehicle or motor vehicle component outside of a structure required by Section 9.16(c) of this regulation, unless all the following requirements are met:

(1) Conduct all spray-coating in a portable frame-and-fabric shelter consisting of a fabric roof and three fabric sides or similar portable shelter consisting of a roof and three sides.

(A) Disassemble and remove the portable shelter from the site at the end of each day.

(B) Do not conduct mobile spray-coating operations for more than 5 consecutive calendar days at any site and not more than 14 days during any calendar month at the same site.

(2) Do not apply more than 8 ounces of coating to any single vehicle.

(3) Do not apply coating to more than 9 square feet of any single vehicle.

(4) Do not prepare a surface area for spray-coating greater than 9 square feet per any single vehicle. The measured surface area prepared for spray-coating shall include, but is not limited to all areas that are filled, ground, sanded, or inside masking.

(5) Use only HVLP spray guns or spray equipment with equivalent transfer efficiency (greater than or equal to 65%) and with a paint cup capacity less than or equal to 3.0 fluid ounces.

(6) Minimize evaporative emissions by collecting all organic solvents used for cleanup of equipment in a closed-loop or contained system; keeping all containers of paints and organic solvents closed except when materials are being added, mixed, or removed; and storing solvent rags in closed containers.

(7) Post a sign that is visible to the public and shows the name of the

company and current telephone contact information for complaints. Record information regarding complaints received and investigate complaints regarding odor, overspray, or nuisance as soon as possible, but no later than 1 hour after receipt of a complaint. As part of the investigation, determine the wind direction during the time of the complaint. If the cause of a valid complaint cannot be corrected within 2 hours of the time the complaint was received, shut down the operation until corrective action is completed.

(8) Complete the following records for each vehicle when finished with that vehicle:

(A) Customer identification, address where work was performed, date, time, and the name of the person completing the record;

(B) Identification of each vehicle and vehicle component repaired; and

(C) Quantity (in ounces) of each VOC-containing material used on each vehicle.

All records must be kept current, retained for at least 2 years, and made available to Agency representatives upon request.

(9) Provide a copy of the current Agency registration document to each customer prior to starting work at a site.

(e)(f) Compliance with Other Regulations. Compliance with this regulation does not exempt any person from compliance with Regulation I, Section 9.11 and all other applicable regulations including those of other agencies.

SECTION 9.18 CRUSHING OPERATIONS Adopted 01/26/12 (1232)

(a) This section shall apply to all equipment processing nonmetallic minerals located at a source crushing nonmetallic minerals as defined in 40 CFR 60.671.

(b) General Requirements. It shall be unlawful for any person subject to the provisions of this section to cause or allow the emission of any air contaminant in excess of the following emission limits:

(1) The visible emission limits in (A), (B), and (C) are applicable for any period or periods aggregating more than 3 minutes in any one hour.

(A) Each grinding mill, screening operation, bucket elevator, transfer points on belt conveyors, bagging operation, storage bin, enclosed truck or railcar loading station with operating control equipment shall not exhibit greater than 7 percent opacity.

(B) Each crusher with operating control equipment shall not exhibit greater than 12 percent opacity.

(C) Each crusher, grinding mill, screening operation, bucket elevator, transfer points on belt conveyors, bagging operation, storage bin, enclosed truck or railcar loading station exhausting particulate through a stack equipped with an operating fabric filter or operating wet scrubber exhaust shall not exhibit greater than 7 percent opacity.

- (2) Each crusher, grinding mill, screening operation, bucket elevator, transfer points on belt conveyors, bagging operation, storage bin, enclosed truck or railcar loading station exhausting particulate through a stack shall meet a particulate matter limit of 0.01 grains per dry standard cubic foot of exhaust as measured by EPA Method 5.
- (3) Each crusher, grinding mill, screening operation, bucket elevator, transfer point on a conveyor belt, bagging operation, storage bin, enclosed truck or railcar loading station without operating control equipment shall not exhibit visible emissions.
- (4) For the purpose of this section, "Control Equipment" shall mean either fabric filter, wet scrubber, water sprays, or other dust suppression techniques which effectively reduce visible emissions from the emission units observed.
- (c) Testing conducted to verify compliance with the requirements of this section shall be performed in accordance with the Puget Sound Clean Air Agency Regulation I, Section 3.07.

SECTION 9.20 MAINTENANCE OF EQUIPMENT Adopted 12/09/82 (531) Revised 06/09/88 (621)

- (a) It shall be unlawful for any person to cause or allow the operation of any features, machines or devices constituting parts of or called for by plans, specifications, or other information submitted pursuant to Article 6 of Regulation I unless such features, machines or devices are maintained in good working order.
- (b) It shall be unlawful for any person to cause or allow the operation of any equipment as defined in Section 1.07 or control equipment not subject to Section 9.20(a) unless the equipment or control equipment is maintained in good working order.

~~REGULATION I~~—ARTICLE 12: STANDARDS OF PERFORMANCE FOR CONTINUOUS EMISSION MONITORING SYSTEMS

SECTION 12.01 APPLICABILITY Adopted 11/10/71 (135)

Revised 06/09/88 (621), 08/10/89 (644), 04/09/98 (865)

This article shall apply to all continuous emission monitoring systems (CEMS) required under an order, operating permit, or regulation of the Agency. This article shall not be construed to relieve any person of the responsibility to comply with any requirement of 40 CFR Part 60, 61, or 63. Portions of these federal requirements that are less stringent than the provisions of Article 12 shall not supercede the requirements of Article 12.

SECTION 12.03 CONTINUOUS EMISSION MONITORING SYSTEMS

Adopted 06/09/88 (621)

Revised 08/10/89 (644), 04/09/98 (865), 03/25/04 (1024), 09/23/04 (1036), [09/24/15 \(1330\)](#)

- (a) **Continuous Monitoring.** It shall be unlawful for any person to cause or allow the operation of any equipment required to have a continuous emission monitoring system unless the emissions are continuously monitored in accordance with the requirements of this section.
- (b) **Data Recovery.** The owner or operator shall recover valid hourly monitoring data for at least 95% of the hours that the equipment (required to be monitored) is operated during each calendar month except for periods of monitoring system downtime, provided that the owner or operator demonstrates that the downtime was not a result of inadequate design, operation, or maintenance, or any other reasonably preventable condition, and any necessary repairs to the monitoring system are conducted in a timely manner.
- (c) **Quality Assurance.** The owner or operator shall install a continuous emission monitoring system that meets the performance specification in 40 CFR Part 60, Appendix B in effect at the time of its installation, and shall operate this monitoring system in accordance with the quality assurance procedures in Appendix F of 40 CFR Part 60 in effect as of the federal regulation reference date listed in Section 3.25 of this regulation herein incorporated by reference, ~~and the U.S. Environmental Protection Agency's "Recommended Quality Assurance Procedures for Opacity Continuous Monitoring Systems" (EPA 340/1-86-010).~~
- (d) **Data Recording.** Monitoring data commencing on the clock hour and containing at least 45 minutes of monitoring data shall be reduced to 1-hour averages. Monitoring data for opacity shall also be reduced to 6-minute averages. All monitoring data shall be included in these averages except for

data collected during calibration drift tests and cylinder gas audits, and for data collected subsequent to a failed quality assurance test or audit.

(e) **Data Retention.** The owner or operator shall retain all monitoring data averages for at least 2 years, including copies of all reports submitted to the Agency and records of all repairs, adjustments, and maintenance performed on the monitoring system. All such data collected after October 1, 1998 shall be retained for at least 5 years.

(f) **Data Reporting.** The owner or operator shall submit a monthly report to the Agency within 30 days after the end of the month in which the data were recorded. This report shall include:

- (1) The date, time period, magnitude (in the units of the standard) and cause of each emission that exceeded an applicable emission standard;
- (2) The date and time of all actions taken to correct the problem, including any actions taken to minimize the emissions during the exceedance and any actions taken to prevent its recurrence;
- (3) The number of hours that the equipment (required to be monitored) operated each month and the number of valid hours of monitoring data that the monitoring system recovered each month;
- (4) The date, time period, and cause of each failure to meet the data recovery requirements of Section 12.03(b) and any actions taken to ensure adequate collection of such data;
- (5) The date, time period, and cause of each failure to recover valid hourly monitoring data for at least 90% of the hours that the equipment (required to be monitored) was operated each day;
- (6) The results of all cylinder gas audits conducted during the month; and
- (7) A certification of truth, accuracy, and completeness signed by an authorized representative of the owner or operator.

(g) **Relative Accuracy Tests.** All relative accuracy tests shall be subject to the provisions of Section 3.07 of this regulation.

(h) **Exemptions.** The data recording and reporting requirements of Sections 12.03(d) and 12.03(f) shall not apply to continuous VOC monitoring systems required under Section 2.05 of Regulation II. Further, relative accuracy tests shall not be required of these monitoring systems and may be waived for any other monitoring system not otherwise subject to 40 CFR Part 60, Appendix F, provided that the owner or operator demonstrates to the Control Officer that the emissions are consistently below 10% of the applicable emission standard.

~~REGULATION I~~—ARTICLE 13: SOLID FUEL BURNING DEVICE STANDARDS

SECTION 13.01 POLICY AND PURPOSE Adopted 11/10/88 (634)

Revised 09/26/91 (708), 09/09/99 (895), 10/25/12 (1258)

The Board of Directors of the Puget Sound Clean Air Agency (Board) declares it to be the public policy of the Agency to control and reduce air pollution caused by solid fuel burning devices such as wood stoves, pellet stoves, and fireplaces. It is the Agency's policy to educate the public about the health effects of wood stove emissions and cleaner heating alternatives. It is the intent of this regulation to secure and maintain levels of air quality that protect human health and to comply with the requirements of the state and federal Clean Air Acts.

The Board encourages cities, towns and counties within its jurisdiction to enhance public education and assist in the enforcement of this Regulation during declared air quality episodes and periods of impaired air quality.

SECTION 13.02 DEFINITIONS Adopted 09/23/04 (1036)

Revised 09/22/05 (1057), 10/25/12 (1258)

When used herein:

- (a) Adequate Source of Heat means a heating system designed to maintain seventy degrees Fahrenheit at a point three feet above the floor in each normally inhabited room. If any part of the heating system has been disconnected, damaged, or is otherwise nonfunctional, the Agency shall base the assessment of the adequacy of the design on the system's capability prior to the disconnection, damage, improper maintenance, malfunction, or occurrence that rendered the system nonfunctional.
- (b) AGENCY means the Puget Sound Clean Air Agency.
- (c) Certified Wood Stove means a wood stove that:
 - (1) has been determined by Ecology to meet Washington emission performance standards, pursuant to RCW 70.94.457 and WAC 173-433-100; or
 - (2) has been certified and labeled in accordance with procedures and criteria specified in "40 C.F.R. 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" as amended through July 1, 1990; or
 - (3) meets the "Oregon Department of Environmental Quality Phase 2" emissions standards contained in Subsections (2) and (3) of Section 340-21-115, and is certified in accordance with "Oregon Administrative Rules, Chapter 340, Division 21 - Woodstove Certification" dated November 1984.
- (d) Coal-only heater means an enclosed, coal burning appliance capable of and intended for residential space heating, domestic water heating, or indoor cooking and has all of the following characteristics:

- (1) An opening for emptying ash which is located near the bottom or the side of the appliance;
 - (2) A system which admits air primarily up and through the fuel bed;
 - (3) A grate or other similar device for shaking or disturbing the fuel bed or power driven mechanical stoker; and
 - (4) The model is listed by a nationally recognized safety testing laboratory for use of coal only, except for coal ignition purposes.
- (e) Ecology means the Washington State Department of Ecology.
 - (f) EPA means the United States Environmental Protection Agency.
 - (g) Fine particulate or PM2.5 means particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers.
 - (h) Fireplace means any permanently installed masonry fireplace or any factory-built metal solid fuel burning device designed to be used with an open combustion chamber and without features to control the air to fuel ratio.
 - (i) Nonaffected pellet stove means a pellet stove that has an air-to-fuel ratio equal to or greater than 35.0 to 1.0 when tested by an accredited laboratory in accordance with methods and procedures specified by the EPA in "40 CFR 60 Appendix A, Test Method 28A - Measurement of Air to Fuel Ratio and Minimum Achievable Burn Rates for Wood-Fired Appliances" as amended through July 1, 1990.
 - (j) Nonattainment area means a geographical area designated by EPA at 40 C.F.R. Part 81 as exceeding a National Ambient Air Quality Standard for a given criteria pollutant. An area is nonattainment only for the pollutants for which the area has been designated nonattainment.
 - (k) PM10 means particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers.
 - (l) PROPERLY SEASONED FUEL WOOD means untreated wood or untreated lumber with moisture content of 20% or less, wet basis, or 25% or less, dry basis.
 - (m) Solid Fuel Burning Device or solid fuel heating device means a device that burns wood, coal, or any other nongaseous or nonliquid fuels, and includes any device burning any solid fuel which has a heat input less than one million British thermal units per hour. This includes, but is not limited to, devices used for aesthetic or space-heating purposes in a private residence or commercial establishment.
 - (n) SUBSTANTIALLY REMODELED means any alteration or restoration of a building exceeding sixty percent of the appraised value of such building within a twelve-month period.

- (o) TACOMA, WASHINGTON Fine Particulate Nonattainment Area means the area of Pierce County that is designated by EPA as not meeting the 2006 federal 24-hr fine particulate National Ambient Air Quality Standard and described in 40 CFR 81.348. This area is also known as the Tacoma, Pierce County Nonattainment Area.
- (p) Treated wood means wood or lumber of any species that has been chemically impregnated, painted, or similarly modified to prevent weathering and deterioration.
- (q) Wood stove or wood heater means an enclosed solid fuel burning device capable of and intended for residential space heating and domestic water heating that meets the following criteria contained in "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" as amended through July 1, 1990:
 - (1) An air-to-fuel ratio in the combustion chamber averaging less than 35.0, as determined by EPA Reference Method 28A;
 - (2) A useable firebox volume of less than twenty cubic feet;
 - (3) A minimum burn rate less than 5 kg/hr as determined by EPA Reference Method 28; and
 - (4) A maximum weight of 800 kg, excluding fixtures and devices that are normally sold separately, such as flue pipe, chimney, and masonry components not integral to the appliance.

Any combination of parts, typically consisting of but not limited to: doors, legs, flue pipe collars, brackets, bolts and other hardware, when manufactured for the purpose of being assembled, with or without additional owner supplied parts, into a woodstove, is considered a woodstove.

SECTION 13.03 OPACITY STANDARDS Adopted 12/08/94 (808) Renumbered 09/23/04 (1036); Revised 10/25/12 (1258)

- (a) A person shall not cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of twenty percent opacity for six consecutive minutes in any one-hour period.
- (b) Test method and procedures. Methods and procedures specified by the EPA in "40 CFR 60 Appendix A reference method 9 –Visual Determinations of the Opacity of Emissions from Stationary Sources" as amended through July 1, 1990, shall be used to determine compliance with subsection (a) of this section.
- (c) Enforcement. Smoke visible from a chimney, flue or exhaust duct in excess of the opacity standard shall constitute prima facie evidence of unlawful operation of a solid fuel burning device. This presumption may be refuted by demonstration that the smoke was not caused by a solid fuel burning device. The provisions of this section shall not apply during the starting of a new fire for a period not to exceed twenty minutes in any four-hour period.

SECTION 13.04 ALLOWED AND PROHIBITED FUEL TYPES

Adopted 10/25/12 (1258)

- (a) A person shall cause or allow only the following materials to be burned in a solid fuel burning device:
 - (1) Properly seasoned fuel wood; or
 - (2) An amount of paper necessary for starting a fire; or
 - (3) Wood pellets; or
 - (4) Biomass fire logs intended for burning in a wood stove or fireplace; or
 - (5) Coal with sulfur content less than 1.0% by weight burned in a coal-only heater.
- (b) All other materials are prohibited from being burned in a solid fuel burning device, including, but not limited to: garbage; pallets; treated lumber; fencing; treated wood; plastic and plastic products; rubber products; animal carcasses; asphaltic products; waste petroleum products; paints and chemicals; paper (other than an amount necessary to start a fire); or any substance that emits dense smoke or obnoxious odors.

SECTION 13.05 RESTRICTIONS ON OPERATION OF SOLID FUEL BURNING DEVICES

Adopted 10/25/12 (1258)

- (a) No person in a residence or commercial establishment shall operate a solid fuel burning device under any of the following conditions:
 - (1) Whenever the Agency has declared the first stage of impaired air quality for a geographical area in accordance with RCW 70.94.473(1)(b)(i) or (ii), unless an exemption for the residence or commercial building has been obtained from the Agency pursuant to subsection (d) of this section or the solid fuel burning device is one of the following:
 - (A) A nonaffected pellet stove; or
 - (B) A wood stove certified and labeled by the EPA under "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" as amended through July 1, 1990; or
 - (C) A wood stove meeting the "Oregon Department of Environmental Quality Phase 2" emission standards contained in Subsections (2) and (3) of Section 340-21-115, and certified in accordance with "Oregon Administrative Rules, Chapter 340, Division 21 – Woodstove Certification" dated November 1984; or

(D) A solid fuel burning device approved by Ecology as meeting the standards in RCW 70.94.457(1)(a)-(b).

(2) Whenever the Agency has declared the second stage of impaired air quality for a geographical area in accordance with RCW 70.94.473(1)(c)(i), (ii), or (iii) unless an exemption for the residence or commercial building has been obtained from the Agency pursuant to subsection (d) of this section.

(b) Whenever a first stage of impaired air quality is declared under subsection (a)(1):

(1) New solid fuel shall be withheld from any solid fuel burning device already in operation for the duration of the first stage of impaired air quality if that device is restricted from operating under subsection (a)(1) of this section during the first stage of impaired air quality;

(2) Smoke visible from a chimney, flue, or exhaust duct after three hours has elapsed from the declaration of a first stage of impaired air quality shall constitute prima facie evidence of unlawful operation of a solid fuel burning device if that solid fuel burning device is restricted from operating during a first stage of impaired air quality. This presumption may be refuted by demonstration that the smoke was not caused by a solid fuel burning device.

(c) Whenever a second stage of impaired air quality is declared under subsection (a)(2):

(1) New solid fuel shall be withheld from any solid fuel burning device already in operation for the duration of the second stage of impaired air quality if that device is restricted from operating under subsection (a)(2) of this section during the second stage of impaired air quality.

(2) Smoke visible from a chimney, flue, or exhaust duct after three hours has elapsed from the declaration of a second stage of impaired air quality shall constitute prima facie evidence of unlawful operation of a solid fuel burning device if that solid fuel burning device is restricted from operating during a second stage of impaired air quality. This presumption may be refuted by demonstration that the smoke was not caused by a solid fuel burning device.

(d) Any person desiring an exemption from the Agency for the purposes of subsections (a)(1) or (2) of this section shall apply to the Agency using procedures specified by the Agency.

(1) The following are eligible for exemption:

(A) A residence or commercial building that has no adequate source of heat other than a solid fuel burning device and the building

was neither constructed nor substantially remodeled after July 1, 1992.

(B) A residence or commercial building that has no adequate source of heat other than a solid fuel heating device and the building:

- i. was constructed or substantially remodeled after July 1, 1992; and
- ii. is outside an urban growth area, as defined in RCW 36.70A; and
- iii. is outside an area designated by EPA as a PM2.5 or PM10 particulate nonattainment area.

(2) Exemptions shall be valid for a period determined by the Agency. Exemptions may be renewed using procedures specified by the Agency, provided the applicant meets the applicable requirements at the time of exemption renewal. Exemptions may be revoked if the Agency determines the residence or commercial building for which the exemption was approved no longer qualifies for an exemption.

SECTION 13.06 EMISSION PERFORMANCE STANDARDS

Adopted 10/25/12 (1258)

(a) Solid fuel burning devices. A person shall not advertise to sell, offer to sell, sell, bargain, exchange, give away, or install a solid fuel burning device unless it meets both subsections (1) and (2):

(1) It has been certified and labeled in accordance with procedures and criteria specified in "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" as amended through July 1, 1990; and

(2) It meets the following particulate air contaminant emission standards and the test methodology of EPA in effect on January 1, 1991, or an equivalent standard under any test methodology adopted by EPA subsequent to such date:

(A) Two and one-half grams per hour for catalytic woodstoves; and

(B) Four and one-half grams per hour for all other solid fuel burning devices.

(3) For purposes of subsection (a)(2) of this section, "equivalent" shall mean the emissions limits specified in subsection (a)(2) multiplied by a statistically reliable conversion factor determined by Ecology that relates the emission test results from the methodology established by the EPA prior to May 15, 1991, to the test results from the methodology subsequently adopted by EPA.

- (b) Fireplaces. A person shall not advertise to sell, offer to sell, sell, bargain, exchange, give away, or install a factory-built fireplace unless it meets the 1990 EPA standards for wood stoves or an equivalent standard that may be established by the state building code council by rule.
- (c) Subsection (a) of this section shall not apply to fireplaces, including factory-built fireplaces and masonry fireplaces.

SECTION 13.07 PROHIBITIONS ON WOOD STOVES THAT ARE NOT CERTIFIED WOOD STOVES Adopted 10/25/12 (1258)

- (a) Subsections (a)(1) – (a)(4) of this section shall be effective January 1, 2015 and apply only to PM2.5 nonattainment areas or areas where required by EPA.
 - (1) Any person who owns or is responsible for a wood stove that is both (a) not a certified wood stove and (b) is located in the Tacoma, Washington fine particulate nonattainment area must remove and dispose of it or render it permanently inoperable by September 30, 2015.
 - (2) Any person who owns or is responsible for a coal-only heater located in the Tacoma, Washington fine particulate nonattainment area must remove and dispose of it or render it permanently inoperable by September 30, 2015.
 - (3) Subsection (a)(1) of section does not apply to:
 - (A) A person in a residence or commercial establishment that does not have an adequate source of heat without burning wood; or
 - (B) A person with a shop or garage that is detached from the main residence or commercial establishment that does not have an adequate source of heat in the detached shop or garage without burning wood.
 - (4) The owner or person responsible for removing or rendering permanently inoperable a wood stove under subsection (a)(1) of this section or a coal-only heater under subsection (a)(2) of this section must provide documentation of the removal and disposal or rendering permanently inoperable to the Agency using the Agency's procedures within 30 days of the removal or rendering permanently inoperable.
- (b) PM10. Subsection (b) of this section is established for the sole purpose of a contingency measure for PM10 nonattainment and maintenance areas. If the EPA makes written findings that: (1) an area has failed to attain or maintain the National Ambient Air Quality Standard for PM10, and (2) in consultation with Ecology and the Agency, finds that the emissions from solid fuel burning devices are a contributing factor to such failure to attain

or maintain the standard, the use of wood stoves not meeting the standards set forth in RCW 70.94.457 shall be prohibited within the area determined by the Agency to have contributed to the violation. This provision shall take effect one year after such a determination.

ARTICLE 14: PUBLIC RECORDS

SECTION 14.01 AUTHORITY AND PURPOSE Adopted 07/22/10 (1192)

- (a) The Public Records Act ("Act") chapter 42.56 RCW, requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. The Act defines "public record" to include any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by an agency.
- (b) The purpose of these rules is to establish the procedures the Agency will follow in order to provide full access to public records, to provide fullest assistance to requesters, to provide the most timely possible action on public records requests, to protect records from damage or disorganization, and to prevent excessive interference with other essential functions of the Agency. These rules provide information to persons wishing to request access to public records of the Agency and establish processes for both requesters and Agency staff that are designed to best assist members of the public in obtaining such access.
- (c) The purpose of the Act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The Act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, the Agency will be guided by the provisions of the Act describing its purposes and interpretation.

SECTION 14.02 AGENCY DESCRIPTION, CONTACT INFORMATION, PUBLIC RECORDS OFFICER Adopted 07/22/10 (1192), Revised 12/15/16 (1356)

- (a) **Location of Agency's offices.** The Agency's offices are located at 1904 3rd Avenue, Suite 105, Seattle, WA 98101-3317.
- (b) **Identification of and contact information for Agency's public records officer.** Any person wishing to request access to public records of the Agency, or seeking assistance in making such a request should contact the Agency and request assistance from the Agency's Public Records Officer:

Public Records Officer
1904 3rd Avenue, Suite 105
Seattle, WA 98101-3317
(206) 689-4030 (phone) or (800) 552-3565, Ext. 4030 (toll free phone)
(206) 343-7522 (facsimile)
recordsrequest@pscleanair.org

Information is also available on the Agency's website at:
<http://www.pscleanair.org>.

- (c) **Duties of public records officer.** The public records officer oversees compliance with the Act but another Agency staff member may process the request. Therefore, any reference to the public records officer in these rules may refer to the officer or a designee. The public records officer and the Agency will provide the "fullest assistance" to requesters as required by the Act; will ensure that public records are protected from damage or disorganization; and will prevent fulfilling public records requests from causing excessive interference with essential functions of the Agency.

SECTION 14.03 AVAILABILITY OF PUBLIC RECORDS Adopted 07/22/10 (1192)
Revised 10/26/17 (1374)

- (a) **Hours for inspection of public records.** Public records are available for inspection and copying during the normal business hours of the Agency: Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding legal holidays. Public records must be inspected at the office of the Agency.
- (b) **The Agency does not have a public records index.** Given the small size of the Agency and the high volume and types of public records generated and received by the Agency, the Agency finds that maintaining an index is unduly burdensome and would interfere with Agency operations.
- (c) **Organization of public records.** The Agency will maintain its public records in a reasonably organized manner. The Agency will take reasonable actions to protect public records from damage and disorganization. A requester shall not take Agency public records from Agency offices.
- (d) **Public records are available on the Agency's website.** A variety of public records are available on the Agency's website at <http://www.pscleanair.org>. Requesters are encouraged to view the public records available on the website prior to submitting a records request.
- (e) **Making a request for public records.**
- (1) Any person wishing to obtain copies of or inspect public records of the Agency should make the request in writing by letter, fax, or e-mail addressed to the public records officer, and including the following information:
- (A) Name of requester;
 - (B) Address of requester;
 - (C) Other contact information, including telephone number and any e-mail address;
 - (D) Identification of the public records adequate for the public records officer to locate the records; and
 - (E) The date and time of day of the request.

- (2) A requester may also submit a request via the Agency's website at <http://www.pscleanair.org>, in person at the Agency's office, or orally in person or by telephone. For oral requests, the public records officer will confirm receipt of and the substance of the request in writing to the requester.
- (3) If the requester wishes to have copies of public records made instead of simply inspecting them, they should so indicate and make arrangements to pay for copies of the public records or pay a deposit consistent with Section 14.07 of this regulation.

SECTION 14.04 PROCESSING OF PUBLIC RECORDS REQUESTS –

GENERAL Adopted 07/22/10 (1192)
Revised 07/25/13 (1280), 10/26/17 (1374)

- (a) **Agency processes requests efficiently.** The public records officer will process requests in the order allowing the most requests to be processed in the most efficient manner.
- (b) **Acknowledging receipt of request.** Within 5 business days of receipt of a request, the public records officer will do one or more of the following:
 - (1) Provide copies of the requested public records to the requester, if copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon;
 - (2) Provide an internet address and link on the Agency's website to the specific public records requested;
 - (3) Make the public records available for inspection or copying;
 - (4) Provide a reasonable estimate of when records will be available;
 - (5) If a request, or a portion of a request, is unclear or does not sufficiently identify the requested public records, request clarification from the requester. A request for clarification will include a reasonable estimate of time to respond to the request. Clarification may be done by telephone. Clarification done by telephone will be memorialized in writing by the public records officer via letter or e-mail to the requester, and shall state the public records officer's understanding of how the request has been clarified. The public records officer may revise the estimate of when records will be available based upon a clarification; or
 - (6) Deny the request.
- (c) **Failure to respond.** If the Agency does not respond in writing within 5 business days of receipt of the request for disclosure, the requester should consider contacting the public records officer to determine the reason for the failure to respond.

- (d) **Prioritization of Requests.** If a requester submits more than one request within a 30-day period, the public records officer may ask the requester to prioritize the records he or she is requesting so that the Agency is able to provide records of highest priority first. An Agency is not required to ask for prioritization, and a requester is not required to provide it.
- (e) **Protecting rights of others.** In the event that the requested public records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the public records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requester and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to an affected person will include a copy of the request. The requester will be notified of the time provided to an affected person to respond to a notice under this section.
- (f) **Inspection of public records.**
 - (1) Consistent with other demands, the Agency shall promptly provide space to a requester to inspect public records. No member of the public may remove a public record from the viewing area or disassemble or alter any public record. The requester shall indicate which public records they wish the Agency to copy.
 - (2) The requester should claim or review the assembled public records within 30 days of the Agency's notification that the public records are available for inspection or copying. The Agency will notify the requester that they should contact the Agency to make arrangements to claim or review the public records. If the requester or a representative of the requester fails to claim or review the public records within the 30-day period or make other arrangements, the Agency may close the request and re-file the assembled public records. Other public records requests may be processed ahead of a subsequent request by the same person for the same or almost identical public records, which can be processed as a new request.
- (g) **Providing copies of public records.** After inspection is complete, the public records officer shall make the requested copies or arrange for copying.
- (h) **Providing public records in installments.** When the request is for a large number of public records, the public records officer will provide access for inspection and copying in installments, if the officer reasonably determines that it would be practical to provide the records in that way. If, within 30 days, the requester fails to inspect the entire set of public records or one or more of the installments, the public records officer may stop searching for the remaining records and close the request.
- (i) **When access to Agency website is unavailable to requester.** If a requester notifies the Agency that they cannot access an Agency public record through

the Agency's website, the Agency will make a copy of the requested public record available to the requester.

- (j) **Completion of inspection.** When an inspection of requested public records is complete and all requested copies are provided, the public records officer will indicate to the requester that the Agency has made all located, nonexempt public records available for inspection.
- (k) **Closing withdrawn or abandoned requests.** When a requester withdraws a request, fails to fulfill his or her obligations to inspect the public records, fails to clarify a request, or fails to pay a deposit or final payment for requested copies, the public records officer will close the request and tell to the requester that the Agency has closed the request.
- (l) **Later discovered documents.** If, after the Agency has informed a requester that it has provided all available public records, the Agency becomes aware of additional responsive public records existing at the time of the request, it will promptly inform the requester of the additional public records and provide them on an expedited basis.

SECTION 14.05 PROCESSING OF PUBLIC RECORDS REQUESTS – ELECTRONIC PUBLIC RECORDS

Adopted 07/22/10 (1192)
Revised 09/22/16 (1353), 10/26/17 (1374)

- (a) **Requesting electronic public records.** The process for requesting electronic public records is the same as for requesting paper public records.
- (b) **Providing electronic public records.** When a requester requests public records in an electronic format, the public records officer will provide the nonexempt public records or portions of such records that are reasonably locatable in an electronic format that is used by the Agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the Agency keeps the public records.
- (c) **Customized service charge.** If the Agency determines that a request would require the use of information technology expertise or would require the use of customized access that is not used by the Agency for other Agency purposes, the Agency shall charge a customized service charge to a requester. The customized service charge shall be the actual cost of the service used for the request. Before the Agency charges a customized service charge, the Agency shall notify the requester of the reason for the charge; a reasonable estimate of the cost of the charge; and the opportunity to amend the request to avoid or reduce the charge.

SECTION 14.06 EXEMPTIONS

Adopted 07/22/10 (1192)
Revised 10/26/17 (1374)

- (a) **Some Agency public records are exempt from inspection and copying.** The Act provides that a number of types of public records are exempt from

public inspection and copying. In addition, public records are exempt from disclosure if any other statute exempts or prohibits disclosure. Requesters should be aware of exemptions, outside the Act, that restrict the availability of some public records held by the Agency for inspection and copying. The Agency incorporates by reference a list of laws containing exemptions located and maintained by the Municipal Research Service Center, which is located at: <http://www.mrsc.org/Publications> (Appendix C to Public Records Act for Washington Cities and Counties, MRSC, Report No. 61 Revised, September 2016) and by the Washington Attorney General's Office, which is located at <http://www.atg.wa.gov>. A copy of these lists may be obtained from the public records officer.

- (b) **Exemptions shall be stated and briefly explained by the Agency.** If the Agency believes that a public record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the public record or a portion of the public record is being withheld. If only a portion of a public record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requester why portions of the public record are being redacted.
- (c) **Lists of individuals may not be disclosed for commercial purposes.** The Agency is prohibited by statute from disclosing lists of individuals for commercial purposes.

SECTION 14.07 COSTS OF PROVIDING COPIES OF PUBLIC RECORDS

Adopted 07/22/10 (1192)
Revised 07/25/13 (1280), 10/26/17 (1374)

- (a) **No fee for inspecting public records.** There is no fee for inspecting public records. There is no fee for the Agency's time spent locating records; for preparing public records for inspection, copying, or scanning; or for e-mailing electronic public records to a requester.
- (b) **Costs for paper copies.** There is no fee for the first 50 paper copies made per request. For requests greater than 50 pages:
 - (1) If paper copies are made at the Agency, a requester may obtain photocopies for \$.15 per page;
 - (2) If paper copies are made outside the Agency at a commercial copier, a requester may obtain copies at the actual cost charged by the commercial copier.
- (c) **Costs for scanned public records.** There is no fee for the first 50 pages scanned per request. For requests greater than 50 pages:
 - (1) If records are scanned by the Agency, a requester may obtain scanned pages for \$.10 per page;

- (2) If the Agency uses a commercial copier to scan public records to respond to a request electronically, a requester may obtain the scanned public records at the actual scanning cost charged by the commercial copier.
- (d) **Deposits.** Before beginning to make paper copies or scanning records, the public records officer may require a deposit of up to 10% of the estimated costs of copying or scanning the public records selected by the requester. The public records officer may also require the payment of the remainder of the copying or scanning costs before providing all the public records, or the payment of the costs of copying or scanning an installment before providing that installment. The Agency does not charge sales tax when it makes copies of or scans public records.
- (e) **Actual Costs.** The Agency may also charge the following actual costs: mailing, including the cost of the shipping container; transmitting electronic records, including the cost of a transmission charge; use of any needed physical media device or cloud-based data storage or processing; and a customized service charge consistent with Section 14.05 of this regulation.
- (f) **Summary of Costs.** If requested by a requester, the public records officer shall provide a summary of applicable charges before any records are produced. In response to a summary, a requester may revise a request to reduce applicable charges.
- (g) **Payment.** Payment may be made by cash, check, money order, or credit card to the Puget Sound Clean Air Agency.

SECTION 14.08 REVIEW OF DENIALS OF PUBLIC RECORDS

Adopted 07/22/10 (1192), 12/15/16 (1356)

- (a) **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a public records request may petition in writing (including by e-mail) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer denying the request.
- (b) **Consideration of petition for review.** The public records officer shall promptly provide the petition and any other relevant information to the Executive Director. The Executive Director will immediately consider the petition; will either affirm or reverse the denial within five business days following the Agency's receipt of the petition, or within such other time period to which the Agency and the petitioner mutually agree; and will promptly inform the petitioner of the decision made.
- (c) **Judicial review.** Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of five business days after the initial denial regardless of any internal administrative appeal.

ARTICLE 15: NONROAD ENGINES

SECTION 15.01 SPECIAL DEFINITIONS

Adopted 12/15/11 (1233)

When used in this Article:

- (a) **“Nonroad engine”** means any internal combustion engine 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. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform. An internal combustion engine is not a nonroad engine if:
- (1) The engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under section 202 of the Federal Clean Air Act; or
 - (2) The engine is regulated by a New Source Performance Standard promulgated under section 111 of the Federal Clean Air Act; or
 - (3) The engine remains or will remain at a location for more than twelve 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 years) and that operates at that single location approximately three months (or more) each year. This paragraph does not apply to an engine after the engine is removed from the location.

SECTION 15.03 NOTICE OF INTENT TO OPERATE

Adopted 12/15/11 (1233)

- (a) **Applicability.** This section applies to any nonroad engines as defined in Section 15.01 of this Regulation, except for:
- (1) Any nonroad engine that is:
 - (A) In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function; or
 - (B) In or on a piece of equipment that is intended to be propelled while performing its function.

- (2) Nonroad engines with a cumulative maximum rated brake horsepower of 500 bhp or less.
 - (3) Engines being stored in work centers, garages, or engine pool sites prior to being dispatched to the field for use and that do not provide back-up power at the work center, garage, or engine pool. Such engines may be operated at these facilities only for the purpose of engine maintenance, testing, and repair.
- (b) **> 500 and ≤ 2000 BHP.** This paragraph applies to the installation and operation of nonroad engines with a cumulative maximum rated brake horsepower greater than 500 bhp and less than or equal to 2000 bhp.
- (1) Notification of intent to operate is required before operations begin. The owner or operator must notify the Agency of their intent to operate prior to beginning operation. The notice must contain the following information:
 - (A) Name and address of owner or operator;
 - (B) Site address or location;
 - (C) Date of equipment arrival at the site;
 - (D) Cumulative engine maximum rated bhp.
 - (2) **Recordkeeping.** For each site, the owner or operator must record the following information for each nonroad engine:
 - (A) Site address or location;
 - (B) Date of equipment arrival at the site;
 - (C) Date of equipment departure from the site;
 - (D) Engine function or purpose;
 - (E) Identification of each component as follows:
 - (i) Equipment manufacturer, model number and its unique serial number;
 - (ii) Engine model year;
 - (iii) Type of fuel used with fuel specifications (sulfur content, cetane number, etc.).

- (3) **Record retention requirements.** The owner or operator must keep the records of the current engine and equipment activity in hard copy or electronic form. These records can be maintained on-site or off-site for at least five years and must be readily available to the permitting authority on request.
- (c) **>2000 bhp.** This paragraph applies to the installation and operation of any nonroad engine(s) with a cumulative maximum rated brake horsepower greater than 2000 bhp.
 - (1) **Notification of intent to operate.** Prior to operation, the owner or operator must notify the Agency of the intent to operate and supply sufficient information to enable the Agency to determine that the operation will comply with national ambient air quality standards as regulated by WAC 173-400-113 (3) and (4). This notification of intent to operate shall be submitted on forms provided by the Agency for this purpose. A notification fee of \$100.00 shall be paid prior to any review by the Agency.
 - (2) **Approval is required before operations begin.** The owner or operator must obtain written nonroad engine approval to operate, from the Agency, prior to operation.
 - (3) **Recordkeeping.** The owner or operator must meet all of the requirements of Sections 15.03(b)(2) and 15.03(b)(3) of this Regulation.
 - (4) **Appeals.** Final decisions and orders of the Agency may be appealed to the Pollution Control Hearings Board as provided in Chapters RCW 43.21B and WAC 371-08.

SECTION 15.05 EMISSION STANDARDS

Adopted 12/15/11 (1233)

- (a) **Fuel standards.** All nonroad engines must use ultra-low sulfur diesel or ultra-low sulfur biodiesel (a sulfur content of 15 ppm or 0.0015% sulfur by weight or less), gasoline, natural gas, propane, liquefied petroleum gas (LPG), hydrogen, ethanol, methanol, or liquefied/compressed natural gas (LNG/CNG). A facility that receives deliveries of only ultra-low sulfur diesel or ultra-low sulfur biodiesel is deemed to be compliant with this fuel standard.
- (b) Nonroad engines are not subject to emission limits set by the state implementation plan.

Appendix C. Public involvement

Appendix C.1 Notices of proposed SIP revision

Notice to Ecology rule and SIP listserv

From: Ecology's Air Quality Rule and State Implementation Plan Updates [<mailto:ECY-AQ-RULE-AND-SIP-UPDATES@LISTSERV.ECOLOGY.WA.GOV>] **On Behalf Of** ECY RE AQComments

Sent: Tuesday, October 22, 2019 10:57 AM

To: ECY-AQ-RULE-AND-SIP-UPDATES@LISTSERV.ECOLOGY.WA.GOV

Subject: Washington SIP Notice: Including Puget Sound Clean Air Agency's Rules in SIP

Ecology is proposing to submit to EPA a revision of Washington's air quality State Implementation Plan (SIP) proposed by the Puget Sound Clean Air Agency (PSCAA). PSCAA has already adopted the rules in the proposed SIP revision into their air quality regulations (Regulation I). Ecology proposes to include these rules in the SIP to make them federally enforceable in PSCAA's jurisdiction. No changes to the existing state or agency's rules are being proposed. The proposed SIP revision document is available at our [website](#).


We invite public comment through **Dec. 6, 2019** and provide an opportunity to request a public hearing by **Nov. 21, 2019**.

To comment or request a public hearing:

- [Comment online](#)
- Mail comments to:
Colleen Stinson
Department of Ecology
PO Box 47600, Olympia, WA 98504-7600
- Attend public hearing in person
Tentative hearing date/time (if requested): Dec. 4, 2019, at 11:00 a.m.
Puget Sound Clean Air Agency
1904 3rd Ave Suite 105
Seattle WA 98101

We must receive a request for a public hearing by **Nov. 21, 2019**. If we do not receive a hearing request, we will announce the cancellation on our [website](#) and on the [Public Input & events listing](#).

For more information, contact [Colleen Stinson](#) at 360-407-6837.



DEPARTMENT OF
ECOLOGY
State of Washington

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HomeAir & ClimateWater & ShorelinesWaste & ToxicsSpills & Cleanup

Regulations & Permits > Plans & Policies > State implementation plans > Infrastructure, rule, & program plans

Plans & Policies

State implementation plans

Attainment SIPs

Infrastructure, rule, & program plans

Maintenance SIPs

Transportation conformity

Infrastructure, rule, & program plans

We submit plans as well as state and local rules to EPA that demonstrate Washington has the tools in place to meet national [air quality standards](#). Once approved by EPA, these plans for infrastructure, rules, and programs become part of Washington's State Implementation Plan (SIP) for air quality. Plans and rules in Washington's State Implementation Plan are enforceable by EPA and the public.

Read other languages: [Español](#) | [中文](#) | [Tiếng Việt](#) | [한국어](#)

I want to...


- Learn about the regional haze state implementation plan
- Find out about Washington's air quality targets
- Sign up for email updates about current projects

Open for public comment

We propose revisions to Washington's air quality State Implementation Plan. These revisions show Washington's ability to attain, maintain, enforce, and implement federal air quality standards through infrastructure requirements and updated rules.


SIP document	How to comment or request a public hearing
Draft SIP Revision: Including Revised Puget Sound Clean Air Agency Regulation Puget Sound Clean Air Agency Regulation rule language	<p>Public comment period: Oct. 21, 2019 – Dec. 6, 2019</p> <ul style="list-style-type: none">Comment or request a public hearing onlineMail comments to: Colleen Stinson, Air Quality Program Washington State Department of Ecology P.O. Box 47600; Olympia, WA 98504-7600 <p>Public hearing CANCELLED: (We did not get a request by Nov. 21, 2019.) December 4, 2019, 11 a.m. Puget Sound Clean Air Agency (map to location) 1904 Third Avenue Suite 105; Seattle, WA 98101</p> <p>For more information, contact Colleen Stinson at 360-407-6837.</p> <p>Español (Spanish) 中文 (Chinese) Tiếng Việt (Vietnamese) 한국어 (Korean)</p>

Appendix C.2 Public involvement calendar

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ECOLOGY
State of Washington

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COMMENT PERIOD

Puget Sound Clean Air Agency's Rule Change

State Implementation Plan (SIP) revision

Oct. 21, 2019 - Dec. 6, 2019, 11:59 p.m.

Ecology is proposing to submit a revision of Washington's air quality State Implementation Plan (SIP) to EPA.

This proposed revision would add Puget Sound Clean Air Agency's rule, Regulation I. Puget Sound Clean Air Agency has adopted the rule.

Documents for review:

- [Draft SIP Revision: Including Revised Puget Sound Clean Air Agency Regulation I](#)
- [Puget Sound Clean Air Agency Regulation I](#) (rule language)

Public hearing CANCELLED:

We have **CANCELLED** the public hearing since we did not get a request by Nov. 21, 2019.


December 4, 2019, 11 a.m.
Puget Sound Clean Air Agency ([map to location](#))
1904 Third Avenue Suite 105; Seattle, WA 98101

You can request the public hearing by using the online comment form linked below. If we do not receive a request for a public hearing, we will cancel it and update this page.


Background

A [State Implementation Plan \(SIP\)](#) is a master plan to keep the air clean. It describes how Washington implements, maintains, and enforces national air quality standards.

The State Implementation Plan is an overarching guidance that outlines the process for reducing air pollution from sources including transportation, wood smoke, and industry. The plans are tailored and implemented to meet regional air quality needs.

Comment online

- Use our [online comment form](#)

Comment by mail

Colleen Stinson
Washington Department of Ecology
Air Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

Top

Top



Questions

Colleen Stinson

Environmental Planner

colleen.stinson@ecy.wa.gov

360-407-6837

To request ADA accommodation, contact Ecology's ADA Coordinator by email at ecyadacoordinator@ecy.wa.gov, or call 360-407-6831, 711 (relay service), or 877-833-6341 (TTY). More about our [accessibility services](#).

Appendix C.3 Legal notices and affidavits of publications

The documents in Appendix C.3 contain text that cannot be made accessible in their current format. To obtain these documents in an alternate format, please email [Ecology's ADA coordinator](#) or call (360) 407-6831. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6384.

DAILY JOURNAL OF COMMERCE

33 Columbia St #200, Seattle, WA 98104
206-622-8272 FAX 206-622-8416

1	BILLING PERIOD	2	ADVERTISER/CLIENT NAME		
	10/21/19		DEPT OF ECOLOGY		
23	TOTAL AMOUNT DUE	24	INVOICE NO.	3	TERMS OF PAYMENT
	110.40		3352620		Net 30

Federal I.D. #91-0193790

ADVERTISING INVOICE

8 BILLED ACCOUNT NAME AND ADDRESS		4 PAGE#	5 BILLING DATE
DEPT OF ECOLOGY PO BOX 47600 Olympia WA 98504-7600		1	10/21/19
		6 BILLED ACCOUNT NUMBER	
		3542	
		7 ADVERTISER/CLIENT NUMBER	

PLEASE DETACH AND RETURN UPPER PORTION WITH YOUR REMITTANCE

10 DATE	11 NEWSPAPER REFERENCE	12 13 14 DESCRIPTION-OTHER COMMENTS/CHARGES	15 SAU SIZE 16 BILLED UNITS	17 TIMES RUN 18 RATE	19 GROSS AMOUNT	20 NET AMOUNT
10/21	378799 10/21	PN:PSCAA SIP MELANIE FORSTER	1x46L 46L	1 2.40		110.40
	*19 OCT 28 4 9:44 DEPT. OF ECOLOGY FISCAL & BUDGET					

Daily Journal of Commerce

24 INVOICE NUMBER	6 BILLED ACCOUNT NUMBER	2 ADVERTISER/CLIENT NAME	23 TOTAL AMOUNT DUE
3352620	3542	DEPT OF ECOLOGY	110.40

STATE OF WASHINGTON -- KING COUNTY

--SS.

378799

No.

DEPT OF ECOLOGY

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

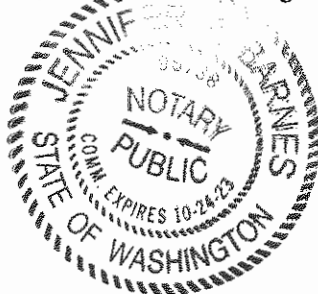
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

PN:PSCAA SIP

was published on

10/21/19

The amount of the fee charged for the foregoing publication is the sum of \$110.40.



Affidavit of Publication

Subscribed and sworn to before me on

10/23/2019

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

Department of Ecology

Public comment period and opportunity to request a hearing

Ecology proposes to include Puget Sound Clean Air Agency's (PSCAA's) revised regulations in Washington's air quality plan, called the State Implementation Plan (SIP), to make them federally enforceable in PSCAA's jurisdiction. PSCAA has already adopted the rules in the proposed SIP revision into their air quality regulations (Regulation I).

Ecology comment period:
October 21, 2019 to December 6, 2019

Deadline to request a hearing:
November 21, 2019

Request a hearing online at
<http://aq.ecology.commentinput.com/?id=ji9hD>

To comment:

Online: <http://aq.ecology.commentinput.com/?id=ji9hD>

Mail to: Colleen Stinson,
Department of Ecology, PO Box
47600, Olympia, WA 98504-7600,

Testify at hearing on December
4, 2019 (if held)

If requested, the hearing will
be held:

December 4, 2019 at 11:00
a.m.

Puget Sound Clean Air
Agency

1904 3rd Ave Suite 105
Seattle WA 98101

If no hearing is requested,
Ecology will post the cancellation
on the agency Public Involvement
Calendar.

Date of publication in
the Seattle Daily Journal of
Commerce, October 21, 2019.

10/21(378799)

Appendix C.4 Comment and response to comment

The comment period for the PSCAA SIP revision closed on Friday December 6, 2019. We received one comment.

10/25/19 12:32 p.m. Dottie Anderson (individual):

“Wood burning in fireplaces and outdoor fire pits for the enjoyment of individuals is polluting our environment and is entirely unnecessary. Many people feel that because it is legal, that they have the right to adversely effect (sic) our health.”

Puget Sound Clean Air Agency response:

Thank you for your comment. This particular action, the SIP revision, does not change or alter any Agency regulations; however, existing regulations may address some of your concerns. Agency Regulation I, Article 8 regulates outdoor burning, and Regulation I, Article 13 regulates solid fuel burning devices. These regulations can be found on the Agency’s website:

[Puget Sound Clean Air Regulations](#)

The Agency’s website also has more information on wood burning and the law:

[Puget Sound Clean Air Wood-Heating](#)

[Puget Sound Clean Air Legal-Overview](#)

Thank you for your comment.

Appendix D. SIP adoption order