

WSR 24-01-073
PERMANENT RULES
NORTHWEST CLEAN
AIR AGENCY

[Filed December 14, 2023, 3:17 p.m., effective January 14, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Update the adoption-by-reference date to allow implementation of the most recent version of the referenced state and federal rules; delete chapter 173-442 WAC since it has been repealed; and add 40 C.F.R. 60 Subparts AAb, KKa, MMA, and TTTa and 40 C.F.R. 62 Subpart 000 to the list (Northwest Clean Air Agency (NWCAA) Section 104).

Replace the detailed public records procedures in the regulation with a general policy statement in accordance with the Public Records Act in chapter 42.56 RCW. The specific details and procedures related to public records are published in a policy on the NWCAA website. This will allow NWCAA to better keep the public records policy up-to-date with the frequent changes in RCW and current case law (NWCAA Section 106).

Update the adoption-by-reference date to allow implementation of the most recent version of the referenced state rules related to the State Environmental Policy Act (NWCAA Section 155).

Revise the definition of "Volatile organic compound (VOC)" to point to the general definitions in WAC 173-400-030 to avoid having to update the NWCAA definition each time the WAC definition section is renumbered (NWCAA Section 200).

Citation of Rules Affected by this Order: Amending Sections 104, 155, 106, and 200 of the Regulation of the NWCAA.

Statutory Authority for Adoption: Chapter 70A.15 RCW.

Adopted under notice filed as WSR 23-21-098 on October 18, 2023.

Date Adopted: December 14, 2023.

Mark Buford
Executive Director

AMENDATORY SECTION

SECTION 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES

104.1 All provisions of the following state rules that are in effect as of October 18, 2023 (~~August 24, 2022~~) are hereby adopted by reference and made part of the Regulation of the NWCAA: chapter 173-400 WAC, (except - -025, -030, -035, -036, -040(1) & (7), -045, -075, -099, -100, -101, -102, -103, -104, -105(7), -110, -114, -115, -116, -171, -930), chapter 173-401 WAC, chapter 173-407 WAC, chapter 173-420 WAC, chapter 173-425 WAC, chapter 173-430 WAC, chapter 173-433 WAC, chapter 173-434 WAC, chapter 173-435 WAC, chapter 173-441 WAC, (~~chapter 173-442 WAC,~~) chapter 173-450 WAC, chapter 173-460 WAC, chapter 173-476 WAC, chapter 173-480 WAC, chapter 173-481 WAC, chapter 173-485 WAC, chapter 173-491 WAC. The requirements of the NWCAA Regulation apply in addition to the statewide regulations adopted and enforced under this paragraph.

104.2 All provisions of the following federal rules that are in effect as of October 18, 2023 (~~August 24, 2022~~) are hereby adopted by reference and made part of the Regulation of the NWCAA: 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans) Appendix M; 40 CFR Part 60 (Standards of Performance For New Stationary Sources) subparts A, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, Ga, H, I, J, Ja, K, Ka, Kb, L, M, N, Na, O, P, Q, R, T, U, V, W, X,

Y, Z, AA, AAa, AAb, CC, DD, EE, GG, HH, KK, KKa, LL, MM, MMa, NN, PP, QQ, RR, SS, TT, UU, VV, VVa, WW, XX, AAA, BBB, DDD, FFF, GGG, GGGa, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, TTTa, UUU, VVV, WWW, XXX, AAAA, CCCC, EEEE, IIII, JJJJ, KKKK, LLLL, OOOO, OOOOa, QQQQ, and Appendix A - I; 40 CFR Part 61 (National Emission Standards For Hazardous Air Pollutants) Subparts A, C, D, E, F, J, L, M, N, O, P, V, Y, BB, FF; 40 CFR Part 62 (Approval and Promulgation of State Plans for Designated Facilities and Pollutants) Subparts LLL and OOO; 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) Subparts A, B, C, D, F, G, H, I, L, M, N, O, Q, R, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBB, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, LLLL, MMMM, NNNN, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, WWWW, YYYY, ZZZZ, ZZZZ, BBBB, CCCC, EEEE, FFFF, GGGG, HHHH, JJJJ, MMMM, NNNNN, OOOOO, QQQQQ, SSSSS, TTTTT, VVVVV, WWWW, XXXXX, ZZZZZ, AAAAAA, DDDDD, EEEEE, and HHHHH; and 40 CFR Parts 72, 73, 74, 75, 76, 77 and 78 (Acid Rain Program).

PASSED: July 8, 1970 AMENDED: April 14, 1993, September 8, 1993, December 8, 1993, October 13, 1994, May 11, 1995, February 8, 1996, May 9, 1996, March 13, 1997, May 14, 1998, November 12, 1998, November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, June 10, 2010, June 9, 2011, November 17, 2011, August 9, 2012, March 14, 2013, September 11, 2014, August 13, 2015, August 11, 2016, September 13, 2018, April 11, 2019, May 14, 2020, June 10, 2021, February 10, 2022, November 10, 2022, December 14, 2023

AMENDATORY SECTION

SECTION 106 - PUBLIC RECORDS

106.1 AUTHORITY ((AND PURPOSE-))

Northwest Clean Air Agency (NWCAA) is required by chapter 42.56 RCW to adopt and enforce reasonable rules and regulations consistent with the intent of the Public Records Act (chapter 42.56 RCW).

~~((A) The Northwest Clean Air Agency (NWCAA) will make available for inspection and copying nonexempt public records in accordance with the Public Records Act, chapter 42.56 RCW. The Public Records Act defines public records 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 the agency.~~

~~(B) The purpose of this section is to establish the procedures the NWCAA will follow in order to provide full access to nonexempt public records. These sections provide information to persons wishing to request access to public records of the NWCAA and establish processes for both requesters and NWCAA staff that are designed to best assist members of the public in obtaining records.)~~

106.2 POLICY ((AGENCY CONTACT INFORMATION))

NWCAA is committed to transparency in government. NWCAA will provide the fullest assistance possible in providing access to public records. Furthermore, the NWCAA's obligations under chapter 42.56 RCW will be met in a timely and professional manner.

The NWCAA public records policy applies to all requests for public records made pursuant to chapter 42.56 RCW. The public records policy is published on the NWCAA website.

~~((A) Any person wishing to request access to public records of the NWCAA, or seeking assistance in making such a request should contact the Public Records Officer of the NWCAA:~~

~~Public Records Officer
Northwest Clean Air Agency
1600 S Second St
Mount Vernon, WA 98273-5202
Phone: 360-428-1617
Facsimile: 360-428-1620
Email: PublicInformationRequests@nwcleanairwa.gov
Requests may be submitted on the NWCAA website at~~

~~www.nwcleanairwa.gov.~~

~~(B) Duties of Public Records Officer. The Public Records Officer will oversee compliance with this section but another NWCAA staff member may process the request. Therefore, any reference to the Public Records Officer in this section may refer to the Public Records Officer or designee.)~~

106.3 PURPOSE ((AVAILABILITY OF PUBLIC RECORDS.))

As directed by RCW 42.56.100, the purpose of NWCAA's public records policy is to establish the procedures NWCAA will follow to provide full access to public records, not specifically exempted by state or federal law. The policy will ensure that requestors receive the fullest assistance while preventing excessive interference with other essential functions of the agency.

~~((A) Public records are available for inspection Monday through Friday during the hours of 8:30 a.m. to 4:00 p.m., excluding legal holidays. Records must be inspected at the NWCAA office. Arrangements to inspect records should be made in advance with the Public Records Officer.~~

~~(B) The NWCAA finds that maintaining an index is unduly burdensome and would interfere with agency operations due to the agency's small size and the high volume and types of public records generated and received by the agency.~~

~~(C) The NWCAA will maintain its records in a reasonably organized manner. The NWCAA will take reasonable actions to protect records from damage and disorganization.~~

~~(D) Making a Request for Public Records. Any person wishing to inspect or to have copies made of public records should make this request in writing by letter, email sent to PublicInformationRequests@nwcleanairwa.gov, or through the NWCAA website at www.nwcleanairwa.gov.~~

~~(1) The request should include the following information:~~

~~(a) Name of requester;~~

~~(b) Address of requester;~~

~~(c) Other contact information, including telephone number and email address;~~

~~(d) Identification of the information or records sought adequate to locate the records; and~~

~~(e) The date and time of day of the request.~~

~~(2) The Public Records Officer may accept requests for public records by telephone or in person. The Public Records Officer will confirm receipt of the request and summarize the request in writing.~~

~~(3) If requesters refuse to identify themselves or provide sufficient contact information, the NWCAA will respond to the extent feasible and consistent with the law.~~

106.4 PROCESSING OF PUBLIC RECORDS REQUESTS

~~(A) The Public Records Officer will provide the fullest assistance to requesters and prevent excessive interference with other essential functions of the NWCAA.~~

~~(B) Within 5 business days of receipt of a request, the Public Records Officer will do one or more of the following:~~

~~(1) Make the records available for inspection.~~

~~(2) Provide a copy of the record.~~

~~(a) If photocopies or scanned copies are requested, the Public Records Officer will notify the requester with an estimated cost of the copies and make arrangements for payment.~~

~~(b) If the records are available on the NWCAA website, the Public Records Officer will provide an internet address to the specific records requested.~~

~~(3) Provide a reasonable estimate of when records or an installment of records will be available.~~

~~(4) Ask the requester to provide clarification for a request that is unclear. If the requester fails to respond to a request for clarification and the entire request is unclear, the NWCAA need not respond to it. The NWCAA will respond to those portions of a request that are clear.~~

~~(5) Deny the request.~~

~~(C) If the NWCAA does not respond within 5 business days of receipt of the request, the requester should contact the Public Records Officer to determine the reason for the failure to respond.~~

~~(D) The NWCAA will notify the requester when records are available for inspection and provide space to review documents. No member of the public may remove a document from the designated reviewing area or from the file. The requester shall indicate which documents he or she wishes the NWCAA to copy.~~

~~(E) The Public Records Officer will evaluate the request according to the nature and volume of the request. The Public Records Officer will process requests in the order allowing the most requests to be processed in the most efficient manner.~~

~~(F) When the request is for a large number of records, the Public Records Officer may provide access for inspection or send copies in installments.~~

~~(G) If, after the NWCAA has informed the requester that it has provided all available records, the NWCAA becomes aware of additional responsive documents existing at the time of the request, the Public Records Officer will promptly inform the requester of the additional documents and provide them on an expedited basis.~~

~~(H) When the requester either withdraws the request, fails to clarify an unclear request, fails to pay the deposit, fails to make final payment for the requested copies, or fails to inspect or claim the requested records within 30 days after notification, the Public Records Officer may close the request and refile the records.~~

~~106.5 COSTS OF PROVIDING COPIES OF PUBLIC RECORDS~~

~~(A) There is no fee for inspecting public records or for the NWCAA's time spent locating public documents and making them available. There is no fee for providing electronic records if they already exist in an electronic format.~~

~~(B) The NWCAA is not calculating actual costs for copying its records because to do so would be unduly burdensome for the following reasons: the NWCAA does not have the resources to conduct a study to determine actual copying costs for all its records and to conduct such a study would interfere with other essential agency functions. Therefore, in order to timely implement a fee schedule consistent with the~~

public records act, it is more cost efficient, expeditious and in the public interest for the NWCAA to adopt the state legislature's approved fees and costs for most of the NWCAA records, as authorized in RCW 42.56.120 and as published in NWCAA 106.5(C).

(C) The costs for copying and conveying records are as follows:

Public Records Fee Schedule	
15 cents / standard page	Photocopies provided by NWCAA staff using agency equipment - no fee for first 100 pages per request
10 cents / standard page	Scanned documents provided by NWCAA staff using agency equipment (if the documents are not already in electronic format) - no fee for first 100 pages per request
Actual cost	Digital storage media or devices
Actual cost	Any container or envelope used to mail copies
Actual cost	Postage or delivery charges
Actual cost	Copying or scanning charged by an outside vendor
Actual cost	Expertise to prepare data compilations or provide customized electronic access services
Actual cost	Retrieving documents out of storage
Other	Other charges allowed in RCW 42.56.120

(D) Payment may be made with a credit card on-line, cash, check, or money order made out to the Treasurer of the NWCAA.

106.6 EXEMPT RECORDS

(A) The Public Records Act provides that some records are exempt in whole or in part from public inspection and copying. In addition to the list of exemptions in RCW 42.56.050, RCW 42.56.210 through RCW 42.56.400, and WAC 44-14-060, common exemptions include:

(1) Confidential business information. The owner or operator of a source may certify that a record or information provided to the agency is confidential because it relates to a process or production unique to the owner or operator or is likely to affect adversely the competitive position if released. Emission and ambient air quality data are excluded from any confidential claim. (RCW 70.94.205)

(2) Attorney-client communications. Communication between an attorney, who is acting as counsel or advisor, and NWCAA staff is confidential unless a member of the public is copied on that communication (RCW 5.60.060 (2) (a))

(3) Preliminary drafts, notes, recommendations, and intra-agency memorandums (RCW 42.56.280)

(4) List of individuals (private or natural persons) for commercial purpose. The NWCAA is prohibited by statute from disclosing lists of individuals for commercial purposes (RCW 42.56.070(8))

(5) Investigative records and information pertaining to ongoing investigations where premature disclosure could jeopardize effective law enforcement or any person's right to privacy. (RCW 42.56.240(1))

(6) Identity of persons who file a complaint with the NWCAA if disclosure would endanger any person's life, physical safety or property. If at the time a complaint is filed, the complainant indicates a desire for nondisclosure, such desire shall govern (RCW 42.56.240(2))

(B) For records or portions of records that are withheld, the Public Records Officer will document the applicable exemption and provide a brief written explanation as to why the record or portion of the record is being withheld.

(C) In the event that the requested public records contain information that may affect rights of others and may be exempt from disclo-

~~sure, the Public Records Officer may, prior to providing the public records, give notice to such others whose rights may be affected by the disclosure.~~

106.7 REVIEW OF DENIALS OF PUBLIC RECORD

~~(A) Any person who objects to the initial denial or partial denial of a records request may petition in writing to the Control Officer of the NWCAA for a review of that decision. The petition shall include a copy of the written statement by the Public Records Officer denying the request.~~

~~(B) The Control Officer or designee will either affirm or reverse the denial within 10 business days following the NWCAA's receipt of the petition.~~

~~(C) Any person may petition the Skagit County Superior Court for a review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of 10 business days after the initial denial regardless of any internal appeal process.)~~

PASSED: August 9, 1978 AMENDED: November 8, 2007, September 13, 2018, December 14, 2023

AMENDATORY SECTION

SECTION 155 - STATE ENVIRONMENTAL POLICY ACT

155.1 Authority

(A) NWCAA adopts these policies and procedures under State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA Rules, Washington Administrative Code (WAC) 197-11-904, with respect to its performance of or participation in environmental review.

(B) The SEPA Rules set forth in Chapter 197-11 WAC must be used in conjunction with these policies and procedures.

155.2 Purpose and Adoption by Reference.

(A) NWCAA adopts the following sections of Chapter 197-11 WAC by reference in effect as of October 18, 2023 ((February 19, 2020)):

WAC 197-11-040: Definitions

-050: Lead Agency

-055: Timing of the SEPA Process

-060: Content of Environmental Review

-070: Limitations on Actions During SEPA Process

-080: Incomplete or Unavailable Information

-090: Supporting Documents

WAC 197-11-100: Information Required of Applicants

-250: SEPA/Model Toxics Control Act Integration

-253: SEPA Lead Agency for MTCA Actions

-256: Preliminary Evaluation

-259: Determination of Nonsignificance for MTCA

Remedial Action

-262: Determination of Significance and EIS for MTCA Remedial Action

-265: Early Scoping for MTCA Remedial Actions

-268: MTCA Interim Actions

WAC 197-11-300: Purpose of This Part

-305: Categorical Exemptions

-310: Threshold Determination Required

-315: Environmental Checklist

-330: Threshold Determination Process

-335: Additional Information

-340: Determination of Non-Significance (DNS)

-350: Mitigated DNS

-360: Determination of Significance (DS)/Initiation of Scoping

- 390: Effect of Threshold Determination
- WAC 197-11-400: Purpose of EIS
- 402: General Requirements
- 405: EIS Types
- 406: EIS Timing
- 408: Scoping
- 410: Expanded Scoping
- 420: EIS Preparation
- 425: Style and Size
- 430: Format
- 435: Cover Letter or Memo
- 440: EIS Contents
- 442: Contents of EIS on Non-Project Proposals
- 443: EIS Contents When Prior Non-Project EIS
- 444: Elements of the Environment
- 448: Relationship of EIS to Other Considerations
- 450: Cost-Benefit Analysis
- 455: Issuance of DEIS
- 460: Issuance of FEIS
- WAC 197-11-500: Purpose of This Part
- 502: Inviting Comment
- 504: Availability and Cost of Environmental Documents
- 508: SEPA Register
- 510: Public Notice
- 535: Public Hearings and Meetings
- 545: Effect of No Comment
- 550: Specificity of Comments
- 560: FEIS Response to Comments
- 570: Consulted Agency Costs to Assist Lead Agency
- WAC 197-11-600: When to Use Existing Environmental Documents
- 610: Use of NEPA Documents
- 620: Supplemental Environmental Impact Statement - Procedures
- 625: Addenda - Procedures
- 630: Adoption - Procedures
- 635: Incorporation by Reference - Procedures
- 640: Combining Documents
- WAC 197-11-650: Purpose of This Part.
- 655: Implementation.
- 660: Substantive Authority and Mitigation.
- 680: Appeals.
- WAC 197-11-700: Definitions
- 702: Act
- 704: Action
- 706: Addendum
- 708: Adoption
- 710: Affected Tribe
- 712: Affecting
- 714: Agency
- 716: Applicant
- 718: Built Environment
- 720: Categorical Exemption
- 722: Consolidated Appeal
- 724: Consulted Agency
- 726: Cost-Benefit Analysis
- 728: County/City
- 730: Decision-Maker
- 732: Department

- 734: Determination of Non-Significance (DNS)
- 736: Determination of Significance (DS)
- 738: EIS
- 740: Environment
- 742: Environmental Checklist
- 744: Environmental Document
- 746: Environmental Review
- 750: Expanded Scoping
- 752: Impacts
- 754: Incorporation by Reference
- 756: Lands Covered by Water
- 758: Lead Agency
- 760: License
- 762: Local Agency
- 764: Major Action
- 766: Mitigated DNS
- 768: Mitigation
- 770: Natural Environment
- 772: NEPA
- 774: Non-Project
- 776: Phased Review
- 778: Preparation
- 780: Private Project
- 782: Probable
- 784: Proposal
- 786: Reasonable Alternative
- 788: Responsible Official
- 790: SEPA
- 792: Scope
- 793: Scoping
- 794: Significant
- 796: State Agency
- 797: Threshold Determination
- 799: Underlying Governmental Action
- WAC 197-11-800: Categorical Exemptions
- 880: Emergencies
- 890: Petitioning DOE to Change Exemptions
- WAC 197-11-900: Purpose of This Part
- 902: Agency SEPA Policies
- 904: Agency SEPA Procedures
- 916: Application to Ongoing Actions
- 920: Agencies with Environmental Expertise
- 922: Lead Agency Rules
- 924: Determining the Lead Agency
- 926: Lead Agency for Governmental Proposals
- 928: Lead Agency for Public and Private Proposals
- 930: Lead Agency for Private Projects With One Agency With Jurisdiction
- 932: Lead Agency for Private Projects Requiring Licenses From More Than One Agency, When One of the Agencies Is a County/City
- 934: Lead Agency for Private Projects Requiring Licenses From A Local Agency, Not a City/County, and One or More Than One State Agency
- 936: Lead Agency for Private Projects Requiring Licenses From More Than One State Agency
- 938: Lead Agencies for Specific Proposals
- 940: Transfer of Lead Agency Status to a State Agency
- 942: Agreements on Lead Agency Status

- 944: Agreements on Division of Lead Agency Duties
- 946: DOE Resolution of Lead Agency Disputes
- 948: Assumption of Lead Agency Status
- WAC 197-11-960: Environmental Checklist
- 965: Adoption Notice
- 970: Determination of Non-Significance (DNS)
- 980: Determination of Significance and Scoping Notice (DS)
- 985: Notice of Assumption of Lead Agency Status
- 990: Notice of Action

(B) In addition to the definitions contained in WAC 197-11-700 through WAC 197-11-799, when used in these policies and procedures the following terms shall have the following meanings, unless the context indicates otherwise:

SEPA Rules. "SEPA Rules" means Chapter 197-11 WAC.

155.3 Responsible Official Designation and Responsibilities

(A) For all proposals for which NWCAA is the lead agency, the responsible official shall be the Control Officer of NWCAA or the NWCAA employee designated by the Control Officer.

(B) For all proposals for which NWCAA 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 "NWCAA," the "lead agency," or "responsible official" by these policies and procedures.

(C) NWCAA shall retain all documents required by these policies and procedures and make them available in accordance with applicable law.

155.4 Lead Agency Determination and Responsibilities

(A) When the NWCAA receives an application for or initiates a proposal that involves a nonexempt action, the NWCAA 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 NWCAA is aware that another agency is in the process of determining the lead agency. When the NWCAA 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 NWCAA is not the lead agency for a proposal, it shall use and consider, as appropriate, the environmental documents of the lead agency in making decisions on the proposal. NWCAA 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 NWCAA 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 and take such action as authorized by the SEPA Rules.

(D) NWCAA may make agreements as to lead agency status or shared lead agency duties for a proposal as described in WAC 197-11-942 and 197-11-944.

(E) When making a lead agency determination for a private project, NWCAA shall require sufficient information from the applicant to identify which other agencies (if any) have jurisdiction over the proposal.

155.5 Time Limits and Other Considerations Applicable to SEPA Rules

(A) For nonexempt proposals, the DNS, FEIS, and/or such other environmental documentation as the responsible official deems appropriate shall accompany NWCAA's staff recommendation to any appropriate advisory body.

155.6 Use of Exemptions

(A) When NWCAA receives an application for a permit or, in the case of governmental proposals, NWCAA initiates the proposal, NWCAA shall determine whether the permit and/or the proposal is exempt. NWCAA'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 these policies and procedures apply to the proposal. NWCAA shall not require completion of an environmental checklist for an exempt permit or proposal.

(B) In determining whether or not a proposal is exempt, NWCAA 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, NWCAA shall determine the lead agency, even if the license application that triggers NWCAA's consideration is exempt.

(C) If a proposal includes both exempt and nonexempt actions, NWCAA may authorize exempt actions prior to compliance with the procedural requirements of these policies and procedures, except that:

(1) NWCAA 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) NWCAA 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) NWCAA 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.

155.7 Environmental Checklist

(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 these policies and procedures; notwithstanding the preceding, a checklist is not needed if NWCAA 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 these policies and procedures, environmental checklist means the environmental checklist required by these policies and procedures.

(B) NWCAA shall use the environmental checklist to determine the lead agency and, if NWCAA is the lead agency, for determining the responsible official and for making the threshold determination.

(C) For private proposals, NWCAA will require the applicant to complete the environmental checklist, providing assistance as necessary. For Agency proposals, NWCAA shall complete the environmental

checklist. NWCAA 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) NWCAA 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.

155.8 Mitigated DNS

(A) As provided in these policies and procedures 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 NWCAA'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 NWCAA is lead agency; and

(2) Precede NWCAA's actual threshold determination for the proposal.

(C) The responsible official should respond to the request for early notice within 30 working days. The response shall:

(1) Be written;

(2) State whether NWCAA currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading NWCAA 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, NWCAA 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, NWCAA 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 NWCAA 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, NWCAA shall issue and circulate a DNS under WAC 197-11-340(2).

(2) If NWCAA indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, NWCAA 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 NWCAA staff reports, studies, or other documents.

(F) A mitigated DNS is issued under WAC 197-11-340(2), requiring a fourteen-day comment period and public notice.

(G) Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be en-

forced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by NWCAA.

(H) If NWCAA's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, NWCAA should evaluate the threshold determination to ensure consistency with WAC 197-11-340 (3)(a) (withdrawal of DNS).

(I) NWCAA's early notice under NWCAA 155.8(C) above shall not be construed as 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 NWCAA to consider the clarifications or changes in its threshold determination.

155.9 Preparation of EIS--Additional Considerations

(A) Preparation of a draft and final EIS (DEIS and FEIS) and draft and final supplemental EIS (SEIS) is the responsibility of the responsible official. Before NWCAA issues an EIS, the responsible official shall be satisfied that it complies with these policies and procedures and Chapter 197-11 WAC.

(B) The DEIS and FEIS or draft and final SEIS may be prepared by NWCAA, by outside consultants selected by NWCAA, or by such other person as NWCAA may so direct consistent with the SEPA Rules. The NWCAA 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 NWCAA requires an EIS for a proposal and determines that someone other than the NWCAA will prepare the EIS, the responsible official shall notify the applicant after completion of the threshold determination. The responsible official shall also notify the applicant of the NWCAA's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

(C) NWCAA may require an applicant to provide information NWCAA does not possess, including specific investigations or research. However, the applicant may not be required to supply information that is not required under these policies and procedures or that is being requested from another agency. (This does not apply to information NWCAA may request under other authority.) Additional information may be required as set forth in WAC 197-11-100.

155.10 Additional Elements To Be Covered In An EIS

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 these policies and procedures:

- (A) Economy
- (B) Social policy analysis
- (C) Cost-benefit analysis

155.11 Public Notice

(A) Whenever the NWCAA issues a DNS under WAC 197-11-340 (2)(b) or a DS under WAC 197-11-360(3), the NWCAA shall give public notice as follows:

(1) If public notice is required for a nonexempt permit or decision document, 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 NWCAA shall give notice of the DNS or DS by:

(a) Written or electronic (email) notice to 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 NWCAA website.

(3) Whenever the NWCAA issues a DS under WAC 197-11-360(3), the NWCAA 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 NWCAA 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 permit or decision document; 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 NWCAA newsletters and/or sending notice to NWCAA mailing lists (general lists or specific lists for proposals or subject areas); and/or

(8) Posting notice on the NWCAA website.

(C) Whenever possible, the NWCAA shall integrate the public notice required under these policies and procedures with existing notice procedures for the NWCAA's nonexempt permit(s) or approval(s) required for the proposal.

(D) The NWCAA may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense.

155.12 Designation of Official to Perform Consulted Agency Responsibilities for NWCAA

(A) The responsible official shall be responsible for the preparation of written comments for NWCAA in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.

(B) The responsible official shall be responsible for the NWCAA's compliance with WAC 197-11-550 whenever the NWCAA is a consulted agency. The responsible official 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 NWCAA. If the nature of the proposal is such that it involves significant impacts on NWCAA's facilities or property, or will require a significant amount of time to provide the information requested to the lead agency, NWCAA may request that the lead agency impose fees upon the applicant to cover the costs of NWCAA's SEPA compliance.

155.13 SEPA Substantive Authority

(A) The policies and goals set forth in this ordinance are supplementary to those in NWCAA's existing authorities.

(B) NWCAA may attach conditions to a permit or approval for a proposal so long as the NWCAA determines that:

(1) Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this ordinance; and

(2) Such conditions are in writing; and

(3) The mitigation measures included in such conditions are reasonable and capable of being accomplished; and

(4) NWCAA has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and

(5) Such conditions are based on one or more policies in subsections (D) through (F) of this section and cited in the permit or other decision document.

(C) The NWCAA may deny a permit or approval for a proposal on the basis of SEPA so long as the NWCAA determines that:

(1) The proposal would be likely to result in significant adverse environmental impacts identified in a final or supplemental EIS prepared pursuant to these policies and procedures; and

(2) Reasonable mitigation measures are insufficient to mitigate the identified impact.

(3) The denial is based on one or more policies identified in subsections (D) through (F) of this section and identified in writing in the decision document.

(D) NWCAA designates and adopts by reference the following policies, plans, rules, and regulations as the potential bases for NWCAA's exercise of substantive authority under SEPA, pursuant to this section:

(1) NWCAA 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) NWCAA 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.

(E) NWCAA adopts by reference the policies in the following laws and NWCAA resolutions, regulations, and plans:

(1) Federal and state Clean Air Acts, and regulations adopted thereunder.

(2) The Regulation of the Northwest Clean Air Agency

(3) Resolutions adopted by NWCAA Board of Directors.

(4) Maintenance plans.

(5) Washington State Implementation Plan.

(F) NWCAA establishes the following additional policies:

(1) Air quality

(a) Policy Background

(i) Air pollution can be damaging to human health, plants and animals, visibility, aesthetics, and the overall quality of life.

(ii) NWCAA is responsible for monitoring air quality in the three-county area, setting standards, and regulating certain development activities with the objective of meeting all applicable air quality standards.

(iii) Federal, state, and regional regulations and programs cannot always anticipate or adequately mitigate adverse air quality impacts.

(b) Policies

(i) To minimize or prevent adverse air quality impacts.

(ii) 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 area within our jurisdiction, and facilitate the enjoyment of the natural attractions of the Puget Sound area.

(iii) To eliminate emissions of ozone-depleting chlorofluorocarbons, in the interests of national and global environmental protection; to consider energy efficiency and conservation to reduce greenhouse gases and in addition, to recognize other existing relevant regulatory requirements.

(iv) 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 State and Federal Agencies; and to encourage replacing uncertified woodstoves with cleaner sources of heat.

(v) To reduce outdoor burning to the greatest extent practical.

(vi) To develop and adopt strategies for effectively reducing or eliminating impacts from toxic air contaminants.

(vii) To control volatile organic compound (VOC) emissions in order to meet National Ambient Air Quality Standard for ozone.

(viii) 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.

(2) Land Use

(a) Policy Background

(i) 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 objectives or regulations.

(ii) Adverse cumulative impacts may result when particular land 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.

(b) Policies

(i) To ensure that proposed uses in projects are reasonably compatible with surrounding uses and are consistent with applicable air quality regulations.

(ii) 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.

(iii) To encourage municipal curbside solid and compostable waste collection services at reasonable costs.

(3) Transportation

(a) Policy Background

(i) Excessive traffic can adversely affect regional air quality.

(ii) Substantial traffic volumes associated with major projects may adversely impact air quality in surrounding areas.

(b) Policies

(i) To minimize or prevent adverse traffic impacts that would undermine the air quality of a neighborhood or surrounding areas.

(ii) 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.

(iii) To encourage integrating land use and transportation planning.

(iv) To emphasize the importance of air quality conformity determinations required for proposed transportation plans, programs, and projects.

(v) To pursue and support alternative and clean fuels projects and programs.

(vi) 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.

(vii) In determining the necessary air quality impact mitigation, the responsible official will examine the mitigation proposed by the local jurisdiction.

(4) Cumulative Effects

(a) The analysis of cumulative effects shall include a reasonable assessment of:

(i) 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

(ii) The demand upon facilities, services, and natural systems of present, simultaneous, and known future development in the area of the project or action.

(b) An action or project may be conditioned or denied to lessen or eliminate its cumulative effects on the environment:

(i) When considered together with prior, simultaneous, or induced future development; or

(ii) 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.

155.14 Administrative Appeals

(A) NWCAA hereby eliminates, pursuant to WAC 197-11-680(2), appeals to its legislative body of determinations relating to SEPA; and

(B) NWCAA hereby elects, pursuant to WAC 197-11-680(3), not to provide for administrative appeals of determinations relating to SEPA.

155.15 Notice/Statute of Limitations

(A) NWCAA, 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 NWCAA, the city clerk or county auditor, applicant, or proponent pursuant to RCW 43.21C.080.

155.16 Fees

(A) In addition to the fees set forth in Section 324 of the NWCAA Regulation, the following fees apply:

(1) Threshold Determination - NWCAA may contract directly with a consultant for preparation of an environmental checklist or other information needed for NWCAA to make a threshold determination, and may bill such costs and expenses directly to the applicant. NWCAA may require the applicant to post bond or otherwise ensure payment of such costs and expenses. In addition, NWCAA may charge a calculated fee from any applicant to cover the costs incurred by NWCAA in preparing an environmental checklist or other information needed for NWCAA to make a threshold determination.

(2) Environmental Impact Statement

(a) When NWCAA is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of NWCAA, NWCAA may charge and collect a reasonable fee from any applicant to cover costs incurred by NWCAA in preparing the EIS.

(b) 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.

(c) The responsible official may determine that NWCAA 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 NWCAA and may bill such costs and expenses directly to the applicant. NWCAA may require the applicant to post bond or otherwise ensure payment of such costs.

(d) If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under NWCAA 155.16 (A) (1) and (2) of these policies and procedures that remain after incurred costs are paid.

(e) NWCAA may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of these policies and procedures relating to the applicant's proposal.

(f) NWCAA shall not collect a fee for performing its duties as a consulted agency, except as provided in WAC 197-11-570.

(g) NWCAA may charge any person for copies of any document prepared under this ordinance, and for mailing the document, in a manner provided by chapter 42.56 RCW.

155.17 Severability

(A) If any provision of these policies and procedures or their application to any person or circumstance is held invalid, the remainder of these policies and procedures, or the application of such invalid provision to other persons or circumstances, shall not be affected.

PASSED: June 10, 2010 AMENDED: August 13, 2015, May 14, 2020, December 14, 2023

AMENDATORY SECTION

SECTION 200 - DEFINITIONS

The terms used in the Regulation of the NWCAA are defined in this section as follows:

ACTUAL EMISSIONS - The actual rate of emissions of a pollutant from an emission unit, as determined in accordance with (A) through (C) of this definition.

(A) In general, the actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions

unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal stationary source operation. The NWCAA shall allow the use of a different time period upon a determination by the NWCAA that it is more representative of normal stationary source operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(B) The NWCAA may presume that stationary source-specific allowable emissions for the unit are equivalent to the actual emissions of the emissions unit.

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

AIR CONTAMINANT or AIR POLLUTANT - Dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.

AIR OPERATING PERMIT (AOP) AFFECTED SOURCE - This term shall have the meaning given to it in WAC 173-401-200. Additionally, for the purposes of NWCAA 322.4e), for Chapter 401 sources operating Sewage Sludge Incinerators (SSI), those emissions units not included in the Air Operating Permit are not part of the AOP affected source.

AIR POLLUTION - 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 interfere with enjoyment of life and property. For the purposes of the NWCAA Regulation, 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.

AIR QUALITY OBJECTIVE - The concentration and exposure time of one or more air contaminants in the ambient air below which, according to available knowledge, undesirable effects will not occur.

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

(A) The applicable standards as in 40 CFR Part 60, 61, 62, or 63;

(B) Any applicable SIP emissions limitation including those with a future compliance date; or

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

AMBIENT AIR - The surrounding outside air.

AMBIENT AIR QUALITY STANDARD OR AIR QUALITY STANDARD - An established concentration, exposure time, and frequency of occurrence of one or more air contaminants in the ambient air which shall not be exceeded.

AMBIENT AIR MONITORING STATION - A station so designated by the Control Officer for the purpose of measuring air contaminant concentrations in the ambient air.

ATTAINMENT AREA - A geographic area designated by EPA at 40 CFR Part 81 as having attained the National Ambient Air Quality Standard (NAAQS) for a given criteria pollutant.

BEGIN ACTUAL CONSTRUCTION - In general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation

of building supports and foundations, laying underground pipe work, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

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

BOARD - Board of Directors of the NWCAA.

BOTTOM LOADING - The filling of a tank through a line entering the bottom of the tank.

BUBBLE - A set of emission limits which allows an increase in emissions from a given emissions unit in exchange for a decrease in emissions from another emissions unit, pursuant to RCW 70.94.155 and WAC 173-400-120.

BULK GASOLINE PLANT - A gasoline storage and transfer facility that receives more than 90 percent of its annual gasoline throughput by transport tank and reloads gasoline into transport tanks.

BUSINESS ESTABLISHMENT - A facility and/or place where commercial and/or professional dealings are conducted.

CATALYTIC CRACKING UNIT - A petroleum refinery cracking unit of the fluid or compact moving bed type consisting of a reactor, regenerator, and fractionating tower and, where employed, a carbon monoxide boiler.

CLOSED REFINERY SYSTEM - A disposal system that will process or dispose of those VOC collected from another system.

COMMERCIAL COMPOSTING FACILITY - A facility that is operated for the purpose of selling or off-site distribution of compost produced via the controlled biological degradation of organic material.

COMPLIANCE ORDER - An order issued by the NWCAA pursuant to the authority of RCW 70.94.332 and 70.94.141(3) that addresses or resolves a compliance issue regarding any requirement of chapter 70.94 RCW or the rules adopted thereunder. Compliance orders may include, but are not limited to, time schedules and/or necessary actions for preventing, abating, or controlling emissions.

CONCEALMENT - Any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharged.

CONTROL FACILITY - Includes any treatment works, control devices and disposal systems, machinery equipment, structures, property or any part of accessories thereof, installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste

which, if released to the outdoor atmosphere, could cause air pollution.

CONTROL OFFICER - Air Pollution Control Officer of the NWCAA, also known as Director.

CRITERIA POLLUTANT - A pollutant for which there is established a National Ambient Air Quality Standard at 40 CFR Part 50. The criteria pollutants are carbon monoxide (CO), particulate matter, ozone (O₃), sulfur dioxide (SO₂), lead (Pb), and nitrogen dioxide (NO₂).

CRUSHING OPERATION - Metallic and nonmetallic mineral processing plants including, but not limited to, rock, asphalt, and concrete crushers, aggregate screens, and sand and gravel operations. It includes: crushers, grinding mills, screening operations, bucket elevators, belt conveyors, bagging operations, storage bins, enclosed truck or railcar loading stations as well as crushers and grinding mills at hot mix asphalt facilities that reduce the size of nonmetallic minerals embedded in recycled asphalt pavement and subsequent affected facilities up to, but not including, the first storage silo or bin. Sources subject to 40 CFR 60 Subpart 000 (Standards of Performance for Nonmetallic Mineral Processing Plants) are considered crushing operations.

CUTBACK ASPHALT - An asphalt that has been blended with more than 7 percent petroleum distillates by weight.

DAYLIGHT HOURS - The hours between official sunrise and official sunset.

DISPOSAL SYSTEM - A process or device that reduces the mass quantity of the uncontrolled VOC emissions by at least 90 percent.

ECOLOGY - Washington State Department of Ecology (WDOE).

EMISSION - A release of air contaminants into the ambient air.

EMISSION REDUCTION CREDIT (ERC) - A credit granted pursuant to WAC 173-400-131. This is a voluntary reduction in emissions.

EMISSION POINT - The location (place in horizontal plane and vertical elevation) from which an emission enters the atmosphere.

EMISSION STANDARD, EMISSION LIMITATION, or EMISSION LIMIT - A requirement established under the Federal Clean Air Act or chapter 70.94 RCW which limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the operation or maintenance of a stationary source to assure continuous emission reduction and any design, equipment work practice, or operational standard adopted under the Federal Clean Air Act or chapter 70.94 RCW.

EMISSIONS UNIT - Any part of a stationary source or source which emits or would have the potential to emit any pollutant subject to regulation under the Federal Clean Air Act, chapter 70.94 RCW, chapter 70.98 RCW, or the Regulation of the NWCAA.

EQUIPMENT - Any stationary or portable device or any part thereof capable of causing the emission of any contaminant into the atmosphere or ambient air.

EXCESS EMISSIONS - Emissions of an air pollutant in excess of any applicable emission standard.

FEDERAL CLEAN AIR ACT (FCAA) - The Federal Clean Air Act, also known as Public Law 88-206, 77 Stat. 392, December 17, 1963, 42 U.S.C. 7401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.

FEDERALLY ENFORCEABLE - All limitations and conditions which are enforceable by EPA, including those requirements developed under 40 CFR Parts 60, 61, 62, and 63, requirements within the Washington SIP, requirements within any permit established under 40 CFR 52.21 or order

of approval under a SIP-approved new source review regulation, or any voluntary limits on emissions pursuant to WAC 173-400-091.

FUEL BURNING EQUIPMENT - Any device used for the external combustion of fuel for the primary purpose of producing useful heat or power.

FUGITIVE DUST - A particulate emission made airborne by forces of wind, man's activity, or both. Unpaved roads, construction sites, and tilled land are examples of areas that generate fugitive dust. Fugitive dust is a type of fugitive emission.

FUGITIVE EMISSIONS - Emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

GASOLINE - A petroleum distillate that is liquid at standard conditions, has a true vapor pressure greater than 4 psia at 20 degrees C, and is used as a fuel for internal combustion engines.

GASOLINE DISPENSING FACILITY (GDF) - Any stationary facility that dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including a nonroad vehicle or nonroad engine used solely for competition. These facilities include, but are not limited to, facilities that dispense gasoline into on- and off-road, street, or highway motor vehicles, lawn equipment, boats, test engines, landscaping equipment, generators, pumps, and other gasoline-fueled engines and equipment.

GASOLINE LOADING TERMINAL - A gasoline transfer facility that receives more than 10 percent of its annual gasoline throughput solely or in combination by pipeline, ship, or barge, and loads gasoline into transport tanks.

GREENHOUSE GASES (GHGs) - Includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

HAZARDOUS AIR POLLUTANT (HAP) - Any air pollutant listed in or pursuant to Section 112(b) of the Federal Clean Air Act, 42 U.S.C. §7412.

HEAT INPUT CAPACITY - The maximum actual or design heat capacity, whichever is greater, stated in British thermal units per hour (BTU/hr), generated by the stationary source and expressed using the higher heating value of the fuel unless otherwise specified.

INCINERATOR - A furnace used primarily for the thermal destruction of waste.

INSTALLATION - 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.

LOWEST ACHIEVABLE EMISSION RATE (LAER) - For any stationary source, the more stringent emissions rate based on the following:

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

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

In no event shall the application of this term allow a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable New Source Performance Standards.

MAJOR MODIFICATION - (A) Major modification as it applies to stationary sources subject to requirements for new stationary sources in nonat-

tainment areas, is defined in WAC 173-400-112. (B) Major modification as it applies to stationary sources subject to requirements for new stationary sources in attainment or unclassified areas is defined in WAC 173-400-113.

MAJOR STATIONARY SOURCE - (A) Major stationary source as it applies to stationary sources subject to requirements for new stationary sources in nonattainment areas is defined in WAC 173-400-112. (B) Major stationary source as it applies to stationary sources subject to requirements for new stationary sources in attainment or unclassified areas is defined in WAC 173-400-113.

MASKING - The mixing of a chemically nonreactive control agent with a malodorous gaseous effluent to change the perceived odor.

MATERIAL HANDLING - The handling, transporting, loading, unloading, storage, and transfer of materials with no significant chemical or physical alteration.

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

MULTIPLE CHAMBER INCINERATOR - Any incinerator consisting of two or more combustion chambers in series, employing adequate design parameters necessary for maximum combustion of the material to be burned.

NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) - An ambient air quality standard set by EPA at 40 CFR Part 50 and includes standards for carbon monoxide (CO), particulate matter, ozone (O₃), sulfur dioxide (SO₂), lead (Pb), and nitrogen dioxide (NO₂).

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAP) - The federal rules in 40 CFR Part 61.

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES - The federal rules in 40 CFR Part 63.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) - The permit program that addresses water pollution by regulating facilities that discharge to waters of the United States.

NEW SOURCE - means one or more of the following:

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

(B) The restart of a stationary source after permanent shutdown

(C) Any other project that constitutes a new source under the Federal Clean Air Act

NEW SOURCE PERFORMANCE STANDARDS (NSPS) - The federal rules in 40 CFR Part 60.

NONATTAINMENT AREA - A geographic area designated by EPA at 40 CFR Part 81 as exceeding a National Ambient Air Quality Standard (NAAQS) for a given criteria pollutant. An area is nonattainment only for the pollutants for which the area has been designated nonattainment.

NONROAD ENGINE - (A) Except as discussed in (B) of this definition, a nonroad engine is any internal combustion engine:

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

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

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

(B) 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 (NSPS) promulgated under section 111 of the Federal Clean Air Act; or

(3) The engine otherwise included in (A) (3) of this definition remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two 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.

NOTICE OF CONSTRUCTION APPLICATION - A written application to allow construction of a new source, modification of an existing stationary source or replacement or substantial alteration of control technology at an existing stationary source.

ODOR - That property of a substance that enables its detection by the sense of smell and/or taste.

ODOR SOURCE - Any source that incurs two verified odor nuisance complaints within a 12 month time period. Odor nuisance complaints are verified by a NWCAA representative according to the criteria in NWCAA Sections 530 and 535.

OPACITY - The degree to which an object seen through a plume is obscured, stated as a percentage.

ORDER - Any order issued by the NWCAA pursuant to chapter 70.94 RCW, including, but not limited to RCW 70.94.332, 70.94.152, 70.94.153, 70.94.154, and 70.94.141(3), and includes, where used in the generic sense, the terms order, compliance order, order of approval, and regulatory order.

ORDER OF APPROVAL OR ORDER OF APPROVAL TO CONSTRUCT (OAC) - A regulatory order issued by the NWCAA to approve the notice of construction application for a proposed new source or modification or the replacement or substantial alteration of control technology at an existing stationary source.

OWNER, OPERATOR, OR AGENT - Includes the person who leases, supervises, or operates the equipment or control facility.

OZONE DEPLETING SUBSTANCE - Substance listed in Appendices A and B to Subpart A of 40 CFR Part 82.

PARTICLE - A small discrete mass of solid or liquid matter.

PARTICULATE MATTER or PARTICULATES - Any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

PARTS PER MILLION (PPM) - parts of a contaminant per million parts of gas, by volume, exclusive of water or particulates.

PERMANENT SHUTDOWN - Permanently stopping or terminating all processes at a "stationary source" or "emissions unit." Except as provided in subsections (A), (B), and (C) whether a shutdown is permanent depends on the intention of the owner or operator at the time of the shutdown as determined from all facts and circumstances, including the cause of the shutdown.

(A) A shutdown is permanent if the owner or operator files a report of shutdown, as provided in NWCAA Section 325. Failure to file such a report does not mean that a shutdown was not permanent.

(B) Any shutdown lasting 2 or more years is considered to be permanent.

(C) A registered source that does not pay the applicable annual registration fee by the deadline is considered in permanent shutdown unless notified in writing by the NWCAA.

PERSON - An individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

PETROLEUM LIQUIDS - Petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery but does not mean Numbers 2 through 6 fuel oils as specified in ASTM D396-78, 89, 90, 92, 96, or 98, gas turbine fuel oils Numbers 2-GT through 4-GT as specified in ASTM D2880-78 or 96, or diesel fuel oils Numbers 2-D and 4-D as specified in ASTM D975-78, 96, or 98a.

PETROLEUM REFINERY - A facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products by distilling crude oils or redistilling, cracking, extracting, or reforming unfinished petroleum derivatives.

PM_{2.5} - Particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix L and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

PM_{2.5} EMISSIONS - Finely divided solid or liquid material, including condensable particulate matter, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in 40 CFR Part 51 or by a test method specified in the SIP. PM_{2.5} emissions are also known as primary PM_{2.5}, direct PM_{2.5}, total PM_{2.5}, or combined filterable PM_{2.5} and condensable PM. These solid particles are emitted directly from an air emissions source or activity, or are the gaseous emissions or liquid droplets from an air emissions source or activity that condense to form PM at ambient temperatures.

PM₁₀ - Particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

PM₁₀ EMISSIONS - Finely divided solid or liquid material, including condensable particulate matter, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as

measured by an applicable reference method, or an equivalent or alternate method, specified in Appendix M of 40 CFR Part 51 or by a test method specified in the SIP.

PORTABLE SOURCE - A portable source is one that is 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. Portable sources include only those that are subject to registration under NWCAA Section 320. Nonroad engines are not considered portable sources.

PORTLAND CEMENT PLANT - Any facility manufacturing portland cement by either the wet or dry process.

POTENTIAL TO EMIT (PTE) - The maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

PREVENTION OF SIGNIFICANT DETERIORATION (PSD) - The program in WAC 173-400-700 through 750.

PROCESS - A physical and/or chemical modification or treatment of a material from its previous state or condition.

PROCESS UNIT - All the equipment essential to a particular production process.

PROPER ATTACHMENT FITTINGS - Connecting hardware for the attachment of fuel transfer or vapor lines that meets or exceeds industrial standards or specifications and the standards of other agencies or institutions responsible for health and safety.

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

REFUSE - Putrescible and non-putrescible solid waste including garbage, rubbish, ashes, dead animals, abandoned automobiles, solid market wastes, street cleanings, and industrial wastes including waste disposal in industrial salvage.

REFUSE BURNING EQUIPMENT - Equipment designed to burn waste (refuse) material, scrap or combustion remains.

REGISTRATION - The process of identifying, delineating, and itemizing all air contaminant sources within the jurisdiction of the NWCAA including the making of periodic reports, as required, by the persons operating or responsible for such sources and may contain information concerning location, size, height of contaminant outlets, processes employed, nature of the contaminant emissions and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

REGULATORY ORDER - An Order issued by the NWCAA to an air contaminant source or sources pursuant to chapter 70.94 RCW including, but not limited to, RCW 70.94.141(3). A Regulatory Order includes an Order that requires compliance with any applicable provision of chapter 70.94 RCW, rules adopted thereunder, or the NWCAA Regulation.

SMOKE - Gas borne particulate matter in a sufficient amount to be observable.

SOLID WASTE - All putrescible and nonputrescible solid and semisolid wastes, including but not limited to garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities. This includes all liquid, solid, and semisolid materials, which are not primary products of public, private, industrial, commercial, mining, and agricultural operations. Solid waste includes but is not limited to septage from septic tanks, dangerous waste, and problem wastes. Solid waste does not include wood waste or sludge from wastewater treatment plants.

SOURCE - All of the emissions unit(s) including quantifiable fugitive emissions, that are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control, whose activities are ancillary to the production of a single product or functionally related groups of products.

SOURCE CATEGORY - All sources of the same type or classification.

STACK - Any point in a stationary source designed to emit solids, liquids, or gases into the air, including a pipe or duct.

STAGE I VAPOR RECOVERY - Vapor recovery system that captures gasoline vapors during gasoline transfer operations at gasoline dispensing facilities, except during motor vehicle refueling.

STAGE II VAPOR RECOVERY - Vapor recovery system that captures gasoline vapors during motor vehicle refueling operations from stationary tanks at gasoline dispensing facilities.

STANDARD CONDITIONS - A temperature of 20 degrees C (68 degrees F) and a pressure of 760 mm (29.92 inches) of mercury.

STANDARD CUBIC FOOT OF GAS - That amount of gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor at a pressure of 14.7 psia and a temperature of 68 degrees F.

STATE ACT - Washington Clean Air Act (chapter 70.94 RCW) and chapter 43.21B RCW.

STATE IMPLEMENTATION PLAN (SIP) - Washington and NWCAA SIP in 40 CFR Part 52, subpart WW. The SIP contains state, local, and federal regulations and orders, the state plan, and compliance schedules approved and promulgated by EPA for the purpose of implementing, maintaining, and enforcing National Ambient Air Quality Standards.

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

SUBMERGED FILL LINE - Any discharge pipe or nozzle that meets either of the following conditions:

(A) Where the tank is filled from the top, the end of the discharge pipe or nozzle must be totally submerged when the liquid level is 6 inches from the bottom of the tank, or

(B) Where the tank is filled from the side, the discharge pipe or nozzle must be totally submerged when the liquid level is 18 inches from the bottom of the tank.

SUBMERGED LOADING - The filling of a tank with a submerged fill line.

SUITABLE CLOSURE or SUITABLE COVER - A door, hatch, cover, lid, pipe cap, pipe blind, valve, or similar device that prevents the accidental spilling or emitting of VOC. Pressure relief valves, aspirator vents, or other devices specifically required for safety and fire protection are not included.

SULFURIC ACID PLANT - Any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge.

SYNTHETIC MINOR - Any stationary source whose potential to emit has been limited below applicable thresholds by means of a federally enforceable order, rule, or permit condition.

THROUGHPUT - means the amount of material passing through a facility.

TON - Short ton or 2,000 pounds (a long ton is considered 2,240 pounds).

TOTAL SUSPENDED PARTICULATE - Particulate matter as measured by the method described in 40 CFR Part 50 Appendix B.

TOXIC AIR POLLUTANT (TAP) OR TOXIC AIR CONTAMINANT - 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.

TRANSPORT TANK - A container with a capacity greater than 264 gallons used for transporting gasoline, including, but not limited to, tank truck, tank trailer, railroad car, and metallic or nonmetallic tank or cell conveyed on a flatbed truck, trailer, or railroad car.

TRUE VAPOR PRESSURE - The equilibrium partial pressure exerted by a hydrocarbon at storage conditions.

TURNAROUND or PROCESS UNIT TURNAROUNDS - The shutting down and starting up of process units for periodic major maintenance and repair of equipment, or other planned purpose.

UNCLASSIFIABLE AREA - An area that cannot be designated attainment or nonattainment on the basis of available information as meeting or not meeting the National Ambient Air Quality Standard for the criteria pollutant and that is listed by EPA at 40 CFR Part 81.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY - Referred to as EPA.

VAPOR BALANCE SYSTEM - A combination of pipes or hoses that create a closed system between the vapor spaces of an unloading tank and receiving tank such that the vapors displaced from the receiving tank are transferred to the tank being unloaded.

VAPOR RECOVERY SYSTEM - A process and equipment that prevents emission to the atmosphere of volatile organic compounds released by the operation of any transfer, storage, or process equipment.

VOLATILE ORGANIC COMPOUND (VOC) - Any carbon compound that participates in atmospheric photochemical reactions; see definition of "Volatile organic compound (VOC)" ((as defined)) in WAC 173-400-030((+95)).

WASHINGTON ADMINISTRATIVE CODE (WAC) - Regulations of executive branch agencies in the state of Washington, such as the Department of Ecology.

WAXY, HEAVY POUR CRUDE OIL - A crude oil with a pour point of 10 degrees C or higher (determined by the ASTM Standard D97-66, "Test for Pour Point of Petroleum Oils").

WOOD WASTE BURNER - A sheet metal or other type of enclosure to form a truncated cone or a single chamber cylindrically shaped incinerator line or constructed of suitable refractory material that is designed and used for the disposal of wood and bark wastes by incineration.

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