

WSR 24-11-157
PROPOSED RULES
NORTHWEST CLEAN
AIR AGENCY

[Filed May 22, 2024, 10:40 a.m.]

Original Notice.

Proposal is exempt under RCW 70A.15.2040(1).

Title of Rule and Other Identifying Information: Regulations of the Northwest Clean Air Agency (NWCAA).

Hearing Location(s): On July 25, 2024, at 10 a.m., at the NWCAA Office, 1600 South 2nd Street, Mount Vernon, WA; or via video and teleconference <https://us06web.zoom.us/j/2183891719?pwd=QjYxZzJjeGhZVGNSaHpmUTczVlRidz09&omn=87173063449>, Meeting ID 218 389 1719, Passcode 2E6SP4, Phone 253-215-8782.

Date of Intended Adoption: August 8, 2024.

Submit Written Comments to: Mark Buford, 1600 South 2nd Street, Mount Vernon, WA 98273, email info@nwcleanairwa.gov, fax 360-428-1620, by July 25, 2024, at 11 a.m.

Assistance for Persons with Disabilities: Contact Tanya Asmundson, phone 360-428-1617, fax 360-428-1620, email info@nwcleanairwa.gov, by July 18, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Update the RCW citations for the Washington State Clean Air Act in the NWCAA Regulation to reflect the RCW renumbering by the state legislature under Washington state SHB 2246. No language was changed in the Clear [Clean] Air Act or the NWCAA Regulations as a part of this rule change. (NWCAA Sections 100, 103, 120, 121, 131, 132, 133, 200, 300, 305, 309, 320, 322, 324, 350, 502, 504, and 506).

Reasons Supporting Proposal: See list above.

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

Statute Being Implemented: RCW 70A.15.2040(1) and chapter 42.56 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: NWCAA, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Mark Buford, 1600 South 2nd Street, Mount Vernon, WA, 360-428-1617.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable under RCW 70A.15.2040.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 70A.15.2040.

Explanation of exemptions: Not applicable under RCW 70A.15.2040.

Scope of exemption for rule proposal:

Is fully exempt.

May 14, 2024
Mark Buford
Executive Director

AMENDATORY SECTION

SECTION 100 - NAME OF AGENCY

100.1 The multi-county agency, consisting of Island, Skagit and Whatcom Counties, having been formed pursuant to the Washington State Clean Air Act RCW 70A.15 (~~(70.94)~~), shall be known and cited as the "Northwest Clean Air Agency", and hereinafter may be cited as the "NWCAA" or the "Authority."

100.2 Any reference to the Northwest Air Pollution Authority, the Authority or the NWAPA in any document previously issued by the agency, including without limitation orders, permits, judgments, letters and the like shall be deemed reference to the Northwest Clean Air Agency or the NWCAA.

AMENDED: July 14, 2005, August 8, 2024

AMENDATORY SECTION

SECTION 103 - DUTIES AND POWERS

103.1 Pursuant to the provisions of the Washington Clean Air Act RCW 70A.15 (~~(70.94)~~) and RCW 43.21A and 43.21B, the Board may take such reasonable action as may be necessary to prevent air pollution which may include control or measurement of emissions of air contaminants from a source.

The Board shall appoint a Control Officer competent in the field of air pollution control whose sole responsibility shall be to observe and enforce the provisions of all ordinances, orders, resolution, or rules and regulations of the NWCAA pertaining to the control and prevention of air pollution. The Board shall establish such procedures and take such action as may be required to implement Section 102 in a manner consistent with the State Act and other applicable laws.

103.2 The Board shall require that the Control Officer maintain appropriate records and prepare periodic reports.

103.3 The Board shall receive minutes of meetings of the Advisory Council as required. The decisions of the Advisory Council shall be forwarded to the Board in writing and shall include minority opinions in cases of serious disagreement.

103.4 The Control Officer is empowered by the board to sign official complaints and/or issue violations and/or apply to any court of competent jurisdiction for necessary orders and with Board approval or ratification, commence legal action. Nothing herein contained shall be construed to limit the Control Officer from using any other legal means to enforce the provisions of the Regulations of the NWCAA.

PASSED: January 8, 1969 AMENDED: July 8, 1970, February 14, 1973, April 14, 1993, August 8, 2024

AMENDATORY SECTION

SECTION 120 - HEARINGS

120.1 The Board shall retain authority to hold hearings, issue subpoenas for witnesses and evidence, and take testimony under oath and do all things not prohibited by or in a conflict with state law, in any hearing held under the Regulations of the NWCAA.

120.11 The Board shall admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable prudent persons in the conduct of their affairs. The Board shall give effect to the rules of privilege recognized by law. The Board shall exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

120.12 All evidence, including but not limited to records, and documents in the possession of the Board of which it desired to avail itself, shall be offered and made a part of the record in the case, and no other factual information or evidence shall be considered in

the determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

120.13 Every party shall have the right to cross examination of witnesses who testify, and shall have the right to submit rebuttal evidence.

120.14 The Board may take notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within their specialized knowledge. Parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The Board may utilize their experience, technical competence, and their specialized knowledge in the evaluation of the evidence presented to them.

120.2 Any hearings held under this section, under the Washington Clean Air Act (RCW 70A.15 (~~(70.94)~~) and 43.21B) shall be pursuant to the provisions of RCW 34.05 as now or hereafter amended.

PASSED: January 8, 1969 AMENDED: July 8, 1970, February 14, 1977, April 14, 1993, November 8, 2007, August 8, 2024

AMENDATORY SECTION

SECTION 121 - ORDERS

121.1 The NWCAA may issue such orders as may be necessary to effectuate and enforce the purposes of chapter 70A.15 (~~(70.94)~~) RCW or the rules adopted thereunder.

121.2 If the NWCAA has reason to believe that any provision of chapter 70A.15 (~~(70.94)~~) RCW or the rules adopted thereunder has been violated, the NWCAA may, in addition to any other remedy of law, issue an order that requires corrective action be taken within a reasonable time. Such compliance orders may include dates by which the violation or violations shall cease and may set time schedules for necessary action in preventing, abating, or controlling the emissions.

121.3 Orders of approval related to the establishment of a source are addressed under NWCAA 300, in lieu of the requirements in this section.

121.4 General Orders of Approval are issued under WAC 173-400-560, as adopted in NWCAA 104.1, in lieu of the requirements in this section.

121.5 Any order issued under this section that includes an action listed in NWCAA 305.2(A) is subject to the public involvement provisions of NWCAA 305.

121.6 For regulatory orders related to a RACT determination, a fee shall be assessed in accordance with NWCAA 309.7. For all other orders issued under NWCAA 121, the NWCAA shall assess a fee as specified in NWCAA 324.7 to cover the costs of processing and issuing such order.

121.7 When an applicant requests a regulatory order to limit the potential to emit of any air contaminant or contaminants pursuant to WAC 173-400-091, as adopted in NWCAA 104.1, or requests a modification to such an order, the NWCAA shall issue such order consistent with the requirements of WAC 173-400-091 as adopted in NWCAA 104.1 in addition to the requirements of this Regulation.

PASSED: January 8, 1969 AMENDED: July 8, 1970, February 14, 1973, November 8, 2007, March 14, 2013, August 8, 2024

AMENDATORY SECTION

SECTION 131 - NOTICE TO VIOLATORS

131.1 At least 30 days prior to the commencement of any formal enforcement action under RCW 70A.15.3150 (~~(70.94.430)~~) or 70A.15.3160

((70.94.431)), or NWCAA 132 or 133, the NWCAA shall cause written notice of violation to be served upon the alleged violator. The notice shall specify the provisions of chapter 70A.15 ((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 pursuant to NWCAA 121 directing that necessary corrective action be taken within a reasonable time. In lieu of an order, the Control Officer may require that the alleged violator appear before the Board for a hearing pursuant to NWCAA 120. Every notice of violation shall offer to the alleged violator an opportunity to meet with the NWCAA prior to the commencement of enforcement action.

131.2 The NWCAA, upon issuance of notice of violation, may require the alleged violator to respond in writing or in person within thirty (30) days of the notice and specify the corrective action being taken. Failure to respond shall constitute a prima facie violation of this Regulation and the NWCAA may initiate action pursuant to Sections 132, 133, 134, 135 of this Regulation.

PASSED: January 8, 1969 AMENDED: February 14, 1973, March 13, 1997, July 14, 2005, November 8, 2007, March 14, 2013, August 8, 2024

AMENDATORY SECTION

SECTION 132 - CRIMINAL PENALTY

132.1 Any person who knowingly violates any of the provisions of Chapter 70A.15 ((70.94)) RCW as referenced in NWCAA 104.1, or any ordinance, resolution, or regulation in force pursuant thereto, including the Regulation of the NWCAA, is guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$10,000, or by imprisonment in the county jail for up to 364 days, or by both for each separate violation.

132.2 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 is guilty of a gross misdemeanor and shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for up to 364 days, or both.

132.3 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, is guilty of a class C felony and shall, upon conviction, be punished by a fine of not less than \$50,000, or by imprisonment for not more than five years, or both.

132.4 Any person who knowingly fails to disclose a potential conflict of interest under RCW 70A.15.2000 ((70.94.100)) as referenced in NWCAA 104.1 is guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$5,000.

132.5 Any person who knowingly renders inaccurate any required monitoring device or method required by chapter 70A.15 ((70.94)) RCW as referenced in NWCAA 104.1, or any ordinance, resolution, or regulation in force pursuant thereto, including the Regulation of the NWCAA is guilty of a crime and shall, upon conviction, be punished by a fine of not less than \$10,000 per day for each separate violation.

132.6 Any person who knowingly makes any false material statement, representation, or certification in any form, in any notice or

report required by chapter 70A.15 (~~(70.94)~~) RCW as referenced in NWCAA 104.1, or any ordinance, resolution, or regulation, in force pursuant thereto, including the Regulation of the NWCAA is guilty of a crime and shall, upon conviction, be punished by a fine of not less than \$10,000 per day for each separate violation.

PASSED: January 6, 1969 AMENDED: April 14, 1993, October 13, 1994, March 13, 1997, November 8, 2007, August 13, 2015, August 8, 2024

AMENDATORY SECTION

SECTION 133 - CIVIL PENALTY

133.1 In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of chapter 70A.15 (~~(70.94)~~) RCW, or any of the rules in force pursuant thereto, including the Regulation of the NWCAA may incur a civil penalty in an amount not to exceed \$19,000 per day for each violation. Each such violation shall be a separate and distinct offense, and in the case of a continuing violation, each day's continuance shall be a separate and distinct violation.

Any person who fails to take action as specified by an order shall be liable for a civil penalty of not more than \$19,000 for each day of continued noncompliance.

133.2 The penalty is due and payable 30 days after a notice is served unless an appeal is filed with the Pollution Control Hearings Board (PCHB).

(A) Within 30 days after the Notice is served, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. Upon receipt of the application the Control Officer shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstance such as the presence of information or factors not considered in setting the original penalty.

(B) If such penalty is not paid to the NWCAA within 30 days after such payment is due, the Board or Control Officer may direct the attorney for the NWCAA to bring an action to recover the penalty in Superior Court.

(C) Any judgment will bear interest as provided by statute until satisfied.

133.3 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. If penalties are appealed, interest shall not begin to accrue until the 31st day following final resolution of the appeal.

The maximum penalty amounts established in this section may be increased annually to account for inflation as determined by the State Office of the Economic and Revenue Forecast Council.

133.4 In addition to other penalties, persons knowingly under-reporting emissions or other information used to set fees, persons required to pay emission or permit fees who are more than 90 days late with such payments, or persons failing to file a relocation notice to relocate into NWCAA jurisdiction with required registration fee under NWCAA 514.3 may be assessed a penalty equal to 3 times the amount of the original fee owed.

133.5 The suspended portion of any civil penalty, issued under Section 133 of this Regulation, shall be due and payable in the event of future penalties against the same person within 5 years from the date of said suspension. After 5 years the suspended portion of the Penalty shall be considered void and of no force or effect.

PASSED: January 8, 1969 AMENDED: November 14, 1984, April 14, 1993, September 8, 1993, October 13, 1994, February 8, 1996, November 12, 1998, November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, August 13, 2015, February 10, 2022, August 8, 2024

AMENDATORY SECTION

SECTION 200 - DEFINITIONS

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

BEST AVAILABLE CONTROL TECHNOLOGY (BACT) - An emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation under chapter 70A.15 (~~(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.

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 70A.15.2240 (~~(70.94.155)~~) and WAC 173-400-120.

COMPLIANCE ORDER - An order issued by the NWCAA pursuant to the authority of RCW 70A.15.3010 (~~(70.94.332)~~) and 70A.15.2040(3) (~~(70.94.141(3))~~) that addresses or resolves a compliance issue regarding any requirement of chapter 70A.15 (~~(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.

EMISSION STANDARD, EMISSION LIMITATION, or EMISSION LIMIT - A requirement established under the Federal Clean Air Act or chapter 70A.15 (~~(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 70A.15 (~~(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 70A.15 (~~(70.94)~~) RCW, chapter 70.98 RCW, or the Regulation of the NWCAA.

ORDER - Any order issued by the NWCAA pursuant to chapter 70A.15 (~~(70.94)~~) RCW, including, but not limited to RCW 70.15A.3010

~~((70.94.332))~~, 70A.15.2210 (~~((70.94.152))~~), 70A.15.2220 (~~((70.94.153))~~), 70A.15.2230 (~~((70.94.154))~~), and 70A.15.2040(3) (~~((70.94.141(3)))~~), and includes, where used in the generic sense, the terms order, compliance order, order of approval, and regulatory order.

REGULATORY ORDER - An Order issued by the NWCAA to an air contaminant source or sources pursuant to chapter 70A.15 (~~((70.94))~~) RCW including, but not limited to, RCW 70A.15.2040(3) (~~((70.94.141(3)))~~). A Regulatory Order includes an Order that requires compliance with any applicable provision of chapter 70A.15 (~~((70.94))~~) RCW, rules adopted thereunder, or the NWCAA Regulation.

STATE ACT - Washington Clean Air Act (chapter 70A.15 (~~((70.94))~~) RCW) and chapter 43.21B RCW.

PASSED: January 8, 1969 AMENDED: October 31, 1969, September 3, 1971, June 14, 1972, July 11, 1973, February 14, 1973, January 9, 1974, October 13, 1982, November 14, 1984, October 13, 1994, February 8, 1996, May 9, 1996, March 13, 1997, November 12, 1998, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, November 17, 2011, March 14, 2013, August 13, 2015, August 11, 2016, September 13, 2018, April 11, 2019, February 10, 2022, December 14, 2023, August 8, 2024

AMENDATORY SECTION

SECTION 300 - NEW SOURCE REVIEW

300.1(A) A Notice of Construction (NOC) application must be filed by the owner or operator and an Order of Approval must be issued by the NWCAA, prior to beginning actual construction of any new source or making any modification, except for any of the following:

(1) Emissions units that are categorically exempt under NWCAA 300.3.

(2) Emissions units that are exempt under NWCAA 300.4.

(3) Any emissions unit covered under a General Order of Approval and operating in accordance with NWCAA 300.16.

(B) New source review of a modification is limited to the emissions unit or units proposed to be added to or modified at an existing stationary source and the air contaminants whose emissions would increase above the emission thresholds in NWCAA 300.4 as a result of the modification.

(C) New source review is required for an increase in a plant-wide cap or an emissions-unit-specific emission limit.

(D) The Control Officer may require that a new source or modification, that would otherwise be exempt under this section, submit a Notice of Construction application and be issued an Order of Approval as specified in this section. The Control Officer may also require that individual pollutant emission increases that would otherwise be exempt under this section be included in the Order of Approval review. This discretionary determination will be based on the nature of air pollution emissions from the stationary source and its potential effect on health, economic and social factors, or physical effects on property. Upon request, the proponent shall submit to the Control Officer appropriate information as necessary to make this determination.

300.2 In lieu of this section, any new major stationary source or major modification located in an attainment or unclassifiable area as defined in WAC 173-400-030 shall be processed in accordance with the requirements of WAC 173-400-113 and WAC 173-400-700 through 173-400-750, as applicable, for the pollutant for which the project is

major. Additionally, any new major stationary source or major modification located in a nonattainment area as defined in WAC 173-400-030 shall be processed in accordance with the requirements of WAC 173-400-112 and WAC 173-400-800 through 173-400-860, as applicable, for the pollutant and for precursors of the pollutant for which the area is in nonattainment.

300.3 Categorical Exemptions from New Source Review

Construction of a new emissions unit that falls within one of the categories listed in NWCAA 300.3 is exempt from new source review. Modification of any emissions unit listed in NWCAA 300.3 is exempt from new source review, provided that the modified unit continues to fall within one of the listed categories. The owner or operator shall keep sufficient records to document the exemption under this subsection.

(A) Maintenance/construction:

- (1) Cleaning and sweeping of streets and paved surfaces
- (2) Concrete application, and installation
- (3) Dredging wet spoils handling and placement
- (4) Paving application and maintenance, excluding asphalt plants
- (5) Plant maintenance and upkeep activities (grounds keeping, general repairs, routine house keeping, architectural or maintenance coatings to stationary structures, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.)

- (6) Plumbing installation, plumbing protective coating application and maintenance activities

- (7) Roofing application and maintenance

- (8) Insulation application and maintenance, excluding products for resale

- (9) Janitorial services and consumer use of janitorial products

(B) Storage tanks:

- (1) Lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils

- (2) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation

- (3) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and non-volatile aqueous salt solutions

- (4) Process and white water storage tanks

- (5) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity

- (6) Operation, loading, and unloading of storage tanks less than or equal to 1,100 gallon capacity, with lids or other appropriate closure, that store materials that do not contain Toxic Air Pollutants, as defined in chapter 173-460 WAC, or that have a maximum vapor pressure of 550 mm mercury at 21°C

- (7) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons

- (8) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids with no VOC content

- (C) New or modified fuel burning equipment with a heat input capacity (higher heating value) less than all of the following:

- (1) 500,000 Btu/hr coal or other solid fuels with less than or equal to 0.5% sulfur

(2) 500,000 Btu/hr used oil, per the requirements of RCW 70A.15.4510 (~~70.94.610~~)

(3) 400,000 Btu/hr wood

(4) 1,000,000 Btu/hr gasoline, kerosene, #1 or #2 fuel oil and with less than or equal to 0.05% sulfur

(5) 10,000,000 Btu/hr natural gas, propane, or LPG. This includes combustion units that have natural gas as a primary fuel source and ultra-low sulfur diesel (less than 15 ppm by weight sulfur) as a secondary fuel source that is combusted only during testing or periods of natural gas curtailment beyond the control of the source.

(D) Material handling:

(1) Continuous digester chip feeders

(2) Grain elevators not licensed as warehouses or dealers by either the Washington State Department of Agriculture or the U.S. Department of Agriculture

(3) Storage and handling of water based lubricants for metal working where organic content of the lubricant is less than or equal to 10%

(4) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallon capacity with lids or other appropriate closure. The high boiling point organic material shall not have an atmospheric boiling point of less than 150°C or a vapor pressure more than 5 mm mercury at 21°C.

(E) Water treatment:

(1) Septic sewer systems, not including active wastewater treatment facilities

(2) NPDES permitted ponds and lagoons used solely for the purpose of settling suspended solids and skimming of oil and grease

(3) De-aeration (oxygen scavenging) of water where Toxic Air Pollutants as defined in chapter 173-460 WAC are not emitted

(4) Process water filtration system and demineralizer vents

(5) Sewer manholes, junction boxes, sumps, and lift stations associated with wastewater treatment systems

(6) Demineralizer tanks

(7) Alum tanks

(8) Clean water condensate tanks

(F) Laboratory testing and quality assurance/control testing equipment, including fume hoods, 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.

(G) Monitoring/quality assurance/testing:

(1) Equipment and instrumentation used for quality control/assurance or inspection purpose

(2) Hydraulic and hydrostatic testing equipment

(3) Sample gathering, preparation, and management

(4) Vents from continuous emission monitors and other analyzers

(H) Dry Cleaning: Unvented, dry-to-dry, dry-cleaning equipment that is equipped with refrigerated condensers and carbon absorption to recover the cleaning solvent

(I) Emergency Stationary Internal Combustion Engines (ICE): Any stationary internal combustion engine whose operation is limited to emergency situations and required testing and maintenance, and operates in these capacities for less than 500 hours a year. Examples include stationary ICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if

the facility runs on its own power production) is interrupted, or stationary ICE used to pump water in the case of fire or flood, etc. Stationary ICE used to supply power to an electric grid or that supply power as part of a financial arrangement with another entity are not considered to be emergency engines.

(J) Miscellaneous:

- (1) Single-family residences and duplexes
- (2) Plastic pipe welding
- (3) Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting
- (4) Comfort air conditioning
- (5) Flares used to indicate danger to the public
- (6) Natural and forced air vents and stacks for bathroom/toilet activities
- (7) Personal care activities
- (8) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires
- (9) Tobacco smoking rooms and areas
- (10) Noncommercial smokehouses
- (11) Blacksmith forges for single forges
- (12) Vehicle maintenance activities, not including vehicle surface coating
- (13) Vehicle or equipment washing
- (14) Wax application
- (15) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment
- (16) Ozone generators and ozonation equipment
- (17) Solar simulators
- (18) Ultraviolet curing processes, to the extent that Toxic Air Pollutant gases as defined in chapter 173-460 WAC are not emitted
- (19) Electrical circuit breakers, transformers, or switching equipment installation or operation
- (20) Pulse capacitors
- (21) Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives, excluding pneumatic conveying
- (22) Fire suppression equipment
- (23) Recovery boiler blow-down tank
- (24) Screw press vents
- (25) Drop hammers or hydraulic presses for forging or metal working
- (26) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight
- (27) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities
- (28) Solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm mercury at 21°C not emitting Toxic Air Pollutants as defined in chapter 173-460 WAC
- (29) Surface coating and dip coating operations using materials containing less than or equal to 1% by weight VOC and 1% by weight Toxic Air Pollutants as defined in chapter 173-460 WAC
- (30) Cleaning and stripping activities and equipment using solutions containing less than or equal to 1% by weight VOC and 1% by weight Toxic Air Pollutants as defined in chapter 173-460 WAC. Acid solutions used on metallic substances are not exempt

(31) Gasoline dispensing facilities subject to chapter 173-491 WAC are exempt from Toxic Air Pollutant analysis pursuant to chapter 173-460 WAC

(32) Crushing operations less than 4,500 tons per calendar day

(33) Relocation of a subject portable source operating in accordance with a NWCAA Order of Approval

300.4 Emissions Threshold Exemptions from New Source Review

(A) Construction of a new emissions unit that has an uncontrolled potential to emit emission rate below all of the threshold levels listed in the table contained in NWCAA 300.4(D) is exempt from new source review.

(B) A modification to an existing emissions unit that increases the unit's actual emissions by less than all of the threshold levels listed in the table contained in NWCAA 300.4(D) is exempt from new source review.

(C) Greenhouse gas emissions are exempt from new source review under this section except to the extent required under WAC 173-400-720, Prevention of Significant Deterioration. The owner or operator of a source or emissions unit may request that the NWCAA issue an Order to impose emission limits and/or operation limitations for greenhouse gas emissions.

(D) Exemption threshold levels:

POLLUTANT THRESHOLD LEVEL (ton per year)

(1) Total Suspended Particulates: 1.25

(2) PM₁₀: 0.75

(3) PM_{2.5}: 0.5

(4) Sulfur Dioxide: 2.0

(5) Nitrogen Oxides: 2.0

(6) Volatile Organic Compounds, total: 2.0

(7) Carbon Monoxide: 5.0

(8) Lead: 0.005

(9) Ozone Depleting Substances, total: 1.0

(10) Toxic Air Pollutants: The small quantity emission rate (SQER) specified for each TAP in WAC 173-460-150

300.7 Notice of Construction - Submittal Requirements

Each Notice of Construction application shall be submitted on forms provided by the NWCAA and be accompanied by the appropriate new source review fee specified in NWCAA 324.2.

300.8 Notice of Construction - Completeness Determination.

(A) Within 30 days after receiving a Notice of Construction application, the NWCAA shall either notify the applicant in writing that the application is complete or notify the applicant in writing of the additional information necessary to complete the application.

(B) A complete application contains all the information necessary for processing the application. At a minimum, the application shall include information on the nature and amounts of emissions to be emitted by the proposed new source or increased as part of a modification, as well as the location, design, construction, and operation of the new source as needed to enable the NWCAA to determine that the construction or modification will meet the applicable requirements. Designating an application complete for purposes of permit processing does not preclude the NWCAA from requesting or accepting additional information.

(C) An application is not complete until the State Environmental Policy Act (SEPA) has been addressed under chapter 197-11 WAC and NWCAA Section 155.

(D) An application is not complete until the new source review fee specified in NWCAA 324.2 has been paid.

300.9 Notice of Construction - Final Determination

(A) Within 60 days after receipt of a complete Notice of Construction application, the NWCAA shall either issue a final decision on the application or initiate public notice under NWCAA Section 305 as applicable on a preliminary decision, followed as promptly as practicable by a final decision.

(B) An Order of Approval cannot be issued for the Notice of Construction application until the following criteria are met for those proposed emissions units and pollutants that triggered new source review, as applicable:

(1) Comply with all applicable New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), National Emission Standards for Hazardous Air Pollutants for source categories (NESHAP), emission standards adopted under chapter 70A.15 ((70.94)) RCW and all applicable NWCAA emission standards.

(2) Employ Best Available Control Technology (BACT).

(3) Allowable emissions will not cause or contribute to a violation of any ambient air quality standard. In addition, if located in a nonattainment area, allowable emissions will not violate the requirements for reasonable further progress established by the State Implementation Plan (SIP). If NWCAA has reason to be concerned that the construction or modification would cause or contribute to a violation of a NAAQS, NWCAA may require modeling using the guideline models and procedures of Appendix W of 40 CFR Part 51 as referenced in NWCAA 104.2. Written approval from the EPA must be obtained for any modification to or substitution for a guideline model.

(4) Comply with the applicable requirements of NWCAA Section 305.

(5) Comply with the applicable requirements of WAC 173-400-200 and 173-400-205.

(6) All fees required under NWCAA 324.2 have been paid.

(C) In addition to the requirements of NWCAA 300.9(B), an Order of Approval cannot be issued until the new project meets the Toxic Air Pollutant requirements of WAC 173-400-110 (2)(d).

(D) A person seeking approval to construct a new source or modification that requires an operating permit may elect to integrate review of the operating permit application or amendment required under chapter 173-401 WAC and the Notice of Construction application required by this section. A Notice of Construction application designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines in chapter 173-401 WAC and must comply with NWCAA Section 305.

(E) Every final determination on a Notice of Construction application shall be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the NWCAA.

300.10 Order of Approval - Appeals

(A) The issuance of an Order of Approval, any conditions contained in an Order of Approval, or the denial of a Notice of Construction application may be appealed to the pollution control hearings board as provided in chapter 43.21B RCW.

(B) The NWCAA shall promptly mail copies of each Order approving or denying a Notice of Construction application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising parties of their rights of appeal to the pollution control hearings board.

300.11 Order of Approval - Time Limitations

(A) An Order of Approval becomes invalid if the owner or operator has not begun actual construction within 18 months of approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The NWCAA may extend the approval period upon a satisfactory showing that an extension is justified. A written request for an extension shall include an updated BACT analysis submitted prior to the expiration of the current approval period. No single extension of time shall be longer than 18 months. The cumulative period between initial permit issuance and the end of any approved time extensions shall not exceed 54 months.

(B) This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must begin actual construction within 18 months of the approved commencement date.

300.12 Order of Approval - Revision

(A) The owner or operator may request a revision to an Order of Approval and the NWCAA may approve the request provided that the revision:

(1) Will not cause the source to exceed an emissions standard set by regulation or rule;

(2) Will not result in an exceedance of any ambient air quality standard;

(3) Will not adversely impact the ability to determine compliance with an emissions standard;

(4) Will continue to require Best Available Control Technology (BACT), Lowest Achievable Emission Rate (LAER), and Toxic Air Pollutant Best Available Control Technology (T-BACT), as applicable, for each new source or modification approved by the original Order of Approval (BACT and T-BACT as defined at the time of original approval); and

(5) Will meet the requirements of NWCAA 300.7 through 300.13 and NWCAA Section 305, as applicable.

(B) A revision under NWCAA 300.12 only addresses projects where the emissions increase from each emissions unit qualifies as exempt under NWCAA 300.4.

(C) Each Order of Approval revision request shall be submitted and will be processed as a Notice of Construction application. The application shall be submitted with the appropriate new source review fee specified in NWCAA 324.2.

300.13 Order of Approval - Requirements to Comply

Owners and operators of a source or emissions unit shall:

(A) Comply with the conditions in the Order of Approval or General Order of Approval, as applicable.

(B) Install and operate in accordance with the information submitted in the Notice of Construction application or application for coverage under a General Order of Approval.

300.14 Notice of Construction Application Inapplicability Determination

An owner or operator may submit a written request to the NWCAA to obtain a written determination that a project is exempt from new source review under NWCAA 300.1 or from replacement or substantial alteration of control technology under NWCAA 300.25. The request shall include a summary of the project, a narrative describing why the project should be exempt from applicability, and the appropriate fee in accordance with NWCAA 324.2.

Within 30 days after receiving a request under this subsection, the NWCAA shall either provide the written determination of inapplicability, notify the applicant in writing that the project requires an Order of Approval, or notify the applicant in writing of the additional information necessary to complete the request.

300.16 General Order of Approval

In lieu of filing a Notice of Construction application under NWCAA 300.7, the owner or operator of a qualifying emissions unit may apply for coverage under a General Order of Approval issued under this section.

(A) The NWCAA may issue a General Order of Approval applicable to a specific source type or emissions unit. A General Order of Approval shall identify criteria by which a source or emissions unit may qualify for coverage under the General Order of Approval and shall include terms and conditions under which the owner or operator agrees to install and/or operate the covered source or emissions unit.

(1) These terms and conditions shall include as appropriate:

(a) Emissions limitations and/or control requirements based on Best Available Control Technology (BACT) and/or BACT for Toxic Air Pollutants (T-BACT);

(b) Operational restrictions, such as:

(i) Criteria related to the physical size of the source or emissions unit(s) covered;

(ii) Criteria related to raw materials and fuels used;

(iii) Criteria related to allowed or prohibited locations; and

(iv) Other similar criteria as determined by the NWCAA;

(c) Monitoring, reporting, and recordkeeping requirements to ensure compliance with the applicable emission limits and/or control requirements;

(d) Initial and periodic emission testing requirements;

(e) Compliance with WAC 173-400-112, NWCAA 300.9(B), and 300.9(C), as applicable;

(f) Compliance with 40 CFR Parts 60, 61, 62, and 63; emission standards adopted under chapter 70A.15 ((70.94)) RCW; and all applicable NWCAA emission standards; and

(g) The application and approval process to obtain coverage under the specific General Order of Approval.

(2) The original issuance and any revisions to a General Order of Approval must comply with NWCAA Section 305, as applicable.

(3) The NWCAA may review and revise a General Order of Approval at any time. Revisions to General Orders of Approval shall only take effect prospectively.

(B) Application for coverage under a General Order of Approval.

(1) In lieu of applying for an individual Order of Approval under NWCAA 300.7, an owner or operator of a source or emissions unit may apply for and receive coverage from the NWCAA under a General Order of Approval if:

(a) The owner or operator of the source or emissions unit applies for coverage under a General Order of Approval in accordance with NWCAA 300.16 and any conditions of the specific General Order of Approval related to application for and the granting of coverage;

(b) The source or emissions unit meets all the applicability qualifications listed in the requested General Order of Approval;

(c) The requested source or emissions unit is not part of a new major stationary source or major modification subject to the requirements of WAC 173-400-113 (3) and (4), WAC 173-400-700 through 173-400-750, or 173-400-800 through 173-400-860; and

(d) The requested source or emissions unit does not trigger applicability of the Air Operating Permit program under NWCAA Section 322, or trigger a required modification of an existing Air Operating Permit.

(2) Owners or operators of sources or emissions units applying for coverage under a General Order of Approval shall do so using the forms provided by the NWCAA and include the application fee as specified in NWCAA 324.2. The application must include all information necessary to determine qualification for, and to assure compliance with, a General Order of Approval.

(3) An application is incomplete until the NWCAA has received all required fees.

(4) The owner or operator of the proposed source or emissions unit that qualifies for coverage under a General Order of Approval shall not begin actual construction of the proposed source or emissions unit until written confirmation of coverage from the NWCAA has been received in accordance with the procedures established in NWCAA 300.16(C).

(C) Each General Order of Approval shall include a section on how an applicant is to request coverage and how the NWCAA will grant coverage.

(1) Within 30 days after receipt of an application for coverage under a General Order of Approval, the NWCAA shall either provide written confirmation of coverage under the General Order of Approval or notify the applicant in writing that the application is incomplete, inaccurate, or does not qualify for coverage under the General Order of Approval. If an application is incomplete, the NWCAA shall notify the applicant of the information needed to complete the application. If an application does not qualify for coverage under the General Order of Approval, the NWCAA shall notify the applicant of the reasons why the application does not qualify. Coverage under a General Order of Approval is effective as of the date of issuance of the written confirmation of coverage under the General Order.

(2) Failure of an owner or operator to obtain written confirmation of coverage under NWCAA 300.16 prior to beginning actual construction is considered failure to obtain an Order of Approval pursuant to NWCAA 300.1.

(D) An owner or operator who has received confirmation of coverage under a specific General Order of Approval may later request to be excluded from coverage under that General Order of Approval by applying to the NWCAA for an individual Order of Approval under NWCAA 300.7 or for coverage under another General Order of Approval. If the NWCAA issues an individual Order of Approval or confirms coverage under a different General Order of Approval, coverage under the original General Order of Approval is automatically terminated, effective on the effective date of the individual Order of Approval or confirmation of coverage under the new General Order of Approval.

(E) The Control Officer may require that a new source or modification, that would otherwise be covered under a General Order of Approval, submit a Notice of Construction application and be issued an individual Order of Approval under NWCAA 300.7 through 300.13. This discretionary determination shall be based on the nature of air pollution emissions from the source and its potential effect on health, economic and social factors, or physical effects on property. Upon request, the owner or operator shall submit to the Control Officer, appropriate information as necessary to make this determination.

300.25 Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source.

(A) Any person proposing to replace or substantially alter the emission control technology installed on an existing stationary source or emissions unit shall file a Notice of Construction application with the NWCAA. Replacement or substantial alteration of control technology does not include routine maintenance, repair, or similar parts replacement.

(B) For emissions units and associated pollutants not otherwise reviewable under NWCAA Section 300, the NWCAA may:

(1) Require that the owner or operator employ RACT for the affected emissions unit;

(2) Prescribe reasonable operation and maintenance conditions for the control equipment; and

(3) Prescribe other requirements as authorized by chapter 70A.15 (~~(70.94)~~) RCW.

(C) Within 30 days after receiving a Notice of Construction application under this subsection, the NWCAA shall either notify the applicant in writing that the application is complete or notify the applicant in writing of the additional information necessary to complete the application. Within 30 days of receipt of a complete Notice of Construction application under this section the NWCAA shall either issue an Order of Approval or a proposed RACT determination for the proposed project.

(D) An owner or operator shall not begin actual construction on a project subject to review under this section until the NWCAA issues a final Order of Approval. However, any Notice of Construction application filed under this section shall be deemed to be approved without conditions if the NWCAA takes no action within 30 days of receipt of a complete Notice of Construction application.

(E) Approval to replace or substantially alter emission control technology shall become invalid if the owner or operator has not begun actual construction within 18 months of approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The NWCAA may extend the 18-month approval period upon a satisfactory showing that an extension is justified. No single extension of time shall be longer than 18 months. The cumulative period between initial permit issuance and the end of any approved time extensions shall not exceed 54 months. This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must begin actual construction within 18 months of the approved commencement date.

PASSED: January 8, 1969 AMENDED: July 8, 1970, February 14, 1973, July 11, 1973, August 9, 1978, October 12, 1989, February 14, 1990, April 14, 1993, November 12, 1998, November 12, 1999, March 9, 2000, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, June 10, 2010, June 9, 2011, November 17, 2011, August 13, 2015, April 11, 2019, February 10, 2022, August 8, 2024

AMENDATORY SECTION

SECTION 305 - PUBLIC INVOLVEMENT

305.1 Internet Notice

(A) A notice shall be published on the NWCAA website for each Notice of Construction (NOC) application received by the NWCAA under NWCAA 300.7 and each revision request to an Order of Approval received under NWCAA 300.12. The internet notice shall remain on the NWCAA web-

site for a minimum of 15 consecutive days and shall include the following information:

- (1) name and location of the affected facility,
- (2) brief description of the proposed action, and
- (3) a statement that a public comment period may be requested within 15 days of the initial date of the internet posting.

(B) Requests for a public comment period must be submitted in writing via letter, fax, or email and received by the NWCAA during the 15-day internet notice period. A public comment period shall be provided in accordance with NWCAA 305.3 for any NOC application or proposed Order of Approval revision that receives such a request. Any NOC application or proposed Order of Approval revision for which a public comment period is not requested may be processed without further public involvement at the end of the 15-day request period except as provided in NWCAA 305.2.

305.2 Actions Subject to a Mandatory Public Comment Period

(A) The NWCAA shall provide public notice and a public comment period in accordance with NWCAA 305.3, before approving or denying any of the following types of applications or other actions:

- (1) Use of a modified or substituted air quality model, other than a guideline model in Appendix W of 40 CFR Part 51 as referenced in NWCAA 104.2 as part of review under NWCAA Section 300.
- (2) An Order to determine Reasonably Available Control Technology (RACT) pursuant to NWCAA 309.4 (B), (C), (D), or (E).
- (3) An Order to establish a compliance schedule or a variance.
- (4) An Order to demonstrate the creditable height of a stack which exceeds the good engineering practice (GEP) formula height and 65 meters, by means of a fluid model or a field study, for the purposes of establishing an emission limit.
- (5) An Order to authorize an emissions bubble pursuant to WAC 173-400-120.
- (6) A Regulatory Order to establish or debit emission reduction credits (ERC) issued under WAC 173-400-136.
- (7) An Order issued under WAC 173-400-091 that establishes limitations on a source's potential to emit.
- (8) An extension of the deadline to begin actual construction of a major stationary source or major modification in a nonattainment area.
- (9) The original issuance and any revisions to a General Order of Approval issued under NWCAA 300.16.
- (10) An Notice of Construction application or other proposed action for which the NWCAA determines there is substantial public interest.
- (11) A Notice of Construction application or proposed Order of Approval revision that receives a request for a public comment period under NWCAA 305.1.
- (12) A Notice of Construction application that would result in an emissions increase as follows:

Air Pollutant	Emission Rate in Tons per Year
Carbon Monoxide (CO)	100
Volatile Organic Compounds (VOC)	40
Sulfur Dioxide (SO ₂)	40
Nitrogen Oxides (NO _x)	40
Particulate Matter (PM)	25

Air Pollutant	Emission Rate in Tons per Year
Fine Particulate Matter (PM ₁₀)	15
Fine Particulate Matter (PM _{2.5})	10
Lead	0.6
Fluorides	3
Sulfuric Acid Mist (H ₂ SO ₄)	7
Hydrogen Sulfide (H ₂ S)	10
Total Reduced Sulfur (including H ₂ S)	10
Reduced Sulfur Compounds (including H ₂ S)	10

(13) An increase in emissions of a Toxic Air Pollutant with impacts greater than the Acceptable Source Impact Level (ASIL) for that Toxic Air Pollutant as regulated under chapter 173-460 WAC.

(14) A Notice of Construction Order of Approval with a second tier component as regulated under chapter 173-460 WAC.

(B) Any Notice of Construction application designated for integrated review with an application to issue or modify an Air Operating Permit shall be processed in accordance with the Air Operating Permit program procedures and deadlines set forth in chapter 173-401 WAC.

305.3 Public Comment Period

(A) Public comment period notice for the actions listed under NWCAA 305.2 shall be posted on the NWCAA website for the duration of the public comment period. The NWCAA may supplement this method of notification by advertising in a newspaper of general circulation in the area of the proposed action or by other methods appropriate to notify the local community. The public comment period shall be initiated only after the NWCAA has made a preliminary determination. In the case of a permit action, the cost of providing all noticing shall be borne by the applicant.

(B) The public comment period shall extend at least 30 days following the date the public notice is first published. If a public hearing is held, the public comment period shall extend at least through the hearing date and thereafter for such period as specified in the notice of public hearing.

(C) The NOC application and any written preliminary determination by the NWCAA shall be available for the duration of the public comment period on the NWCAA website, excluding any confidential information as provided in NWCAA Section 114. In addition, the NOC application and any written determination may be made available for public inspection in at least one location near the proposed project. The NWCAA's written preliminary determination shall include the conclusions, determinations and pertinent supporting information from the NWCAA's analysis of the effect of the proposed project on air quality.

(D) The public comment period notice shall include:

- (1) Date the notice is posted;
- (2) Name, location, and a brief description of the project;
- (3) A description of the air contaminant emissions including the type of pollutants and quantity of emissions that would increase under the proposal;
- (4) Location of documents made available for public inspection;
- (5) Start date and end date of the public comment period;
- (6) A statement that a public hearing may be held if the NWCAA determines that significant public interest exists; and

(7) The name, telephone number, and email address of a person at the NWCAA whom interested persons may contact for additional information.

(E) The NWCAA shall distribute a copy of the notice for all actions subject to a mandatory public comment period under NWCAA 305.2, except for NWCAA 305.2 (13) and (14), to the US Environmental Protection Agency Region 10 Regional Administrator.

305.5 Public Hearings

(A) Any person, interested governmental entity, group or the applicant, may request a public hearing during the comment period specified in the public notice. Any such request shall indicate, in writing, the interest of the entity filing it and why a hearing is warranted. The NWCAA may, in its discretion, hold a public hearing if it determines that significant public interest exists. Any such hearing shall be held upon such notice and at a time and place as the NWCAA deems reasonable.

(B) At least 30 days prior to the hearing, the NWCAA shall provide notice of the hearing as follows:

(1) Post the public hearing notice on the NWCAA website as directed by NWCAA 305.3(A). The NWCAA may supplement the web posting by advertising in a newspaper of general circulation in the area of the proposed source or action, or by other methods appropriate to notify the local community. In the case of a permit action, the cost of providing all noticing shall be borne by the applicant.

(2) The hearing legal notice shall include the date, time, and location of the hearing along with the information in NWCAA 305.3(D).

(3) Distribute via email or written letter the notice of public hearing to any person who submitted written comments on the application or requested a public hearing and, in the case of a permit action, to the applicant.

(C) The public hearing notice requirements may be addressed as part of the public comment period notice requirements under NWCAA 305.3.

305.6 Consideration of Public Comments

The NWCAA shall not issue a final decision until the public comment period has ended and any comments received during the public comment period have been considered.

305.7 Public Information

All information, except information protected from disclosure under any applicable law including, but not limited to, NWCAA Section 114 and RCW 70A.15.2510 (~~(70.94.205)~~), is available for public inspection at the NWCAA. This includes copies of Notice of Construction applications, Orders, and applications to modify Orders.

PASSED: July 14, 2005 AMENDED: November 8, 2007, June 9, 2011, November 17, 2011, April 11, 2019, August 8, 2024

AMENDATORY SECTION

SECTION 309 - REASONABLY AVAILABLE CONTROL TECHNOLOGY

309.1 Reasonably Available Control Technology (RACT) is required for all existing sources except as otherwise provided in RCW 70A.15.3000(9) (~~(70.94.331(9))~~).

309.2 Where current controls are determined by the NWCAA to be less than RACT, the NWCAA shall define RACT for that source or source category and issue a rule or an order under NWCAA 121 requiring the installation of RACT.

309.3 RACT for each source category containing three or more sources shall be determined by rule, except as provided in NWCAA 309.4.

309.4 Source-specific RACT determinations may be performed under any of the following circumstances:

(A) For replacement or substantial alteration of existing control equipment under NWCAA 300.25;

(B) When required by the federal Clean Air Act;

(C) For sources in source categories containing fewer than three sources;

(D) 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

(E) 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.

309.5 The Control Officer shall have the authority to perform a 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 RACT analyses and submit the results to the NWCAA.

309.6 In determining RACT, the NWCAA shall utilize the factors set forth in the RACT definition in NWCAA 200 and shall consider RACT determinations and guidance made by the EPA, other states, and local authorities for similar sources, and other relevant factors. In establishing or revising RACT requirements, the NWCAA shall address, where practicable, all air contaminants deemed to be of concern for that source or source category.

309.7 The NWCAA shall assess a fee to be paid by any source included in a RACT determination to cover the direct and indirect costs of developing, establishing, or reviewing categorical or source-specific RACT determinations. The fee for RACT determinations shall be as established in NWCAA 324.6. The amount of the fee may not exceed the direct and indirect costs of establishing the requirement for the particular source or the pro rata portion of the direct and indirect costs of establishing the requirement for the relevant source category.

309.8 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 operating permit issuance or renewal.

309.9 Replacement or substantial alteration of control equipment under NWCAA 300.13 shall be subject to the New Source Review fees under NWCAA 324.2, in lieu of RACT fees under this section.

PASSED: March 14, 2013 AMENDED: October 8, 2015, November 10, 2022, August 8, 2024

AMENDATORY SECTION

SECTION 320 - REGISTRATION PROGRAM

320.1 Program Authority, Applicability and Purpose. As authorized by RCW 70A.15.2200 (~~(70.94.151)~~), the Board, by the NWCAA Regulation, requires registration and reporting for specified classes of stationary air contaminant sources which 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 with special reference to effects on health, economic and social factors, and physical effects on property. The purpose of the registration program is to develop and maintain a current and accurate

record of stationary air contaminant sources within the NWCAA jurisdiction. 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.

320.2 Registration and Reporting. The owner or operator of a stationary air contaminant source for which registration and reporting are required, shall register the source with the NWCAA. The owner or operator shall make reports to the NWCAA containing information as may be required by the NWCAA concerning location, size, and height of air contaminant outlets, processes employed, nature of the air contaminant emission, and such other information as is relevant to air pollution and available or reasonably capable of being assembled. All records and reports required by the NWCAA Regulation for registered sources shall be maintained for at least 3 years from the date of generation and be made available to NWCAA personnel upon request.

320.3 Annual Registration Fees. Registered sources shall pay an annual registration fee. The Board has determined the fee for registered sources as specified in Section 324.1. The amount of fees collected shall not exceed the costs of implementing this registration program. Implementing the registration program includes, but is not limited to:

(A) Review of registered source emission reports and other periodic reports and conducting related compilation and reporting activities;

(B) Conducting compliance inspections, complaint investigations, and other activities necessary to ensure that a registered source is complying with permit, Order, or regulatory requirements, as applicable, including determination of registration applicability;

(C) The share attributable to registered sources of the development and maintenance of emissions inventories;

(D) The share attributable to registered sources for data storage and retrieval systems necessary for support of the registration program;

(E) Registered source fee determinations, assessment, and collection, including the costs of necessary administrative dispute resolution and penalty collection;

(F) The share attributable to registered sources for administration of the program including costs of clerical support, supervision, and management; tracking of time, revenues and expenditures; accounting activities; required fiscal audits and reporting activities; enforcement activities and penalty assessment, excluding the costs of proceedings before the pollution control hearings board and all costs of judicial enforcement.

320.4 Any registered source that does not pay the applicable annual registration fee by the deadline shall be considered in permanent shutdown unless notified in writing by the NWCAA.

320.5 Registration Required

(A) Source categories. Except as provided in NWCAA 320.6, the owner or operator of a source that falls into at least one of the following source categories shall register with the NWCAA:

Any source subject to a National Emission Standard for Hazardous Air Pollutants (NESHAP) under 40 CFR Part 61 other than Subpart M (National Emission Standard for Asbestos).

Any source subject to 40 CFR Part 62.

Any affected source subject to a National Emission Standard for Hazardous Air Pollutants for Source Categories (NESHAP) under 40 CFR Part 63.

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 of EPA requirements under 40 CFR Part 63.

Any source that is subject to an Order of Approval or has been confirmed to be covered by a General Order of Approval by the NWCAA.

Any source with a facility-wide uncontrolled potential to emit emission rate of one or more pollutants equal to or greater than the emission rates listed in NWCAA 300.4(D).

(B) Source types. Except as provided in NWCAA 320.6, the owner or operator of a source that falls into at least one of the following source types shall register with the NWCAA:

Abrasive blasting operations.

Agricultural chemical facilities engaged in the manufacturing of liquid or dry fertilizers or pesticides including, but not limited to, ammonium sulfate.

Agricultural drying and dehydrating operations.

Asphalt and asphalt products production facilities, not including asphalt laying equipment.

Casting facilities and foundries, ferrous and nonferrous.

Coffee roasting facilities.

Commercial smoke houses.

Composite fabrication and repair facilities including fiberglass boat building and repair, and miscellaneous parts fabrication.

Composting operations (commercial, industrial, and municipal).

Concrete product manufacturers and ready mix and premix concrete plants.

Flexible vinyl and urethane coating and printing operations.

Gasoline dispensing facilities and bulk gasoline plants.

Glass manufacturing plants.

Grain, seed, animal feed, legume, and flour processing operations and handling facilities.

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

Material handling and transfer facilities that emit fine particulate to the atmosphere, which may include pneumatic conveying, cyclones, baghouses, and industrial housekeeping vacuuming systems.

Metal plating and anodizing operations.

Crushing operations.

Perchloroethylene dry cleaners.

Soil and groundwater remediation projects including soil vapor extraction (active), thermal soil desorption, or groundwater air stripping operations.

Surface coating operations, including coating of motor vehicles, mobile equipment, boats, ships, metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper and other substrates.

Wastewater treatment plants.

Welding and metal cutting operations.

Wood products mills, including lumber, plywood, shingle, wood-chip, veneer operations, dry kilns, pulpwood insulating board, cabinet works, casket works, furniture, wood by-products, or any combination thereof.

(C) Equipment classification list. Except as provided in NWCAA 320.6, the owner or operator of the following equipment shall register with the NWCAA:

Any affected source subject to a New Source Performance Standard (NSPS) under 40 CFR Part 60, other than Subpart AAA (Standards of Performance for New Residential Wood Heaters).

Chemical concentration evaporators.

Crematoria or animal carcass incinerators.

Degreasers of the cold or vapor type where the solvent for which contains more than 5 percent halogenated compounds or Toxic Air Pollutants.

Ethylene oxide (ETO) sterilizers.

Fuel burning equipment (except natural gas only) with a heat input of more than 1 million Btu per hour, except comfort heating, air conditioning systems, or ventilation systems not designed to remove contaminants generated by or released from equipment.

Fuel burning equipment that fires only natural gas with a heat input of more than 10 million Btu per hour.

Gas collection systems with flares or other combustion devices.

Gas or odor control equipment having a rated capacity greater than or equal to 200 cfm including, but not limited to:

- (1) Activated carbon adsorption
- (2) Barometric condenser
- (3) Biofilter
- (4) Catalytic oxidizer
- (5) Chemical oxidation
- (6) Dry sorbent injection
- (7) Non-selective catalytic reduction (NSCR)
- (8) Refrigerated condenser
- (9) Selective catalytic reduction (SCR)
- (10) Selective non-catalytic reduction (SNCR)
- (11) Wet scrubber

Incinerators;

Ovens, burn-out or heat-treat.

Particulate control equipment having a rated capacity greater than or equal to 2,000 cfm including, but not limited to:

- (1) Baghouse
- (2) Cyclone
- (3) Demister
- (4) Electrostatic precipitator (ESP), dry or wet
- (5) High efficiency particulate air (HEPA) filter
- (6) High velocity air filter
- (7) Mat or panel filter
- (8) Mist eliminator
- (9) Multiclones
- (10) Rotoclone
- (11) Screen
- (12) Venturi scrubber
- (13) Water curtain

Stationary internal combustion engines and turbines rated at 500 horsepower or more.

Storage tanks, reservoirs, or containers with:

(1) a rated capacity greater than 6,000 gallons storing volatile organic liquids, other than petroleum liquids, having a true vapor pressure equal to or greater than 1.5 psia or

(2) a rated capacity greater than 40,000 gallons storing petroleum liquids having a true vapor pressure equal to or greater than 1.5 psia.

Waste oil burners rated at greater than 0.5 million Btu per hour.

(D) The Control Officer may require that any source or equipment, that would otherwise be exempt, be registered as specified in this section. This discretionary determination will be based on 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.

320.6 Exemptions from Registration

(A) Exclusion or exemption from registration does not absolve the owner or operator from complying with all other requirements of the NWCAA Regulation.

(B) The following sources are exempt from registration:

Chapter 401 sources, as defined in WAC 173-401-200. For Chapter 401 sources operating Sewage Sludge Incinerators (SSI), those emissions units not included in the Air Operating Permit shall be subject to registration as applicable with the NWCAA and incur associated fees.

Residential and agricultural composting activities.

(C) The Control Officer may exempt any source or equipment, including any listed in NWCAA Section 320.5, from registration. This discretionary determination will be based on 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.

(D) An exemption from new source review under NWCAA Section 300 is not explicitly an exemption from registration under NWCAA Section 320.

PASSED: January 8, 1969 AMENDED: February 14, 1973, August 9, 1978, February 8, 1996, November 12, 1998, November 12, 1999, July 14, 2005, June 9, 2011, April 11, 2019, February 10, 2022, August 8, 2024

AMENDATORY SECTION

SECTION 322 - AIR OPERATING PERMIT PROGRAM (AOP)

322.1 Purpose. The purpose of this section is to provide for a comprehensive operating permit program consistent with the requirements of Title V of the Federal Clean Air Act (FCAA) Amendments of 1990 and its implementing regulation 40 CFR Part 70, and RCW 70A.15.2260 (~~(70.94.161)~~) and its implementing regulation Chapter 173-401 of the Washington Administrative Code (WAC).

322.2 Applicability. The provisions of this section shall apply to all sources within the NWCAA jurisdiction excluding those regulated by the Washington State Department of Ecology Industrial Section subject to the requirements of Section 7661(a) of the FCAA or Chapter 173-401-300 WAC.

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

322.4 Air Operating Permit Fees.

a) The NWCAA shall levy annual operating permit program fees as set forth in this section to cover the cost of administering its operating permit program.

b) Commencing with the effective date of the operating permit program, the NWCAA shall assess and collect annual air operating per-

mit fees in its jurisdiction for any source specified in Section 7661(a) of Title V of the FCAA or Chapter 173-401-300 WAC (excluding sources regulated by the Washington State Department of Ecology Industrial Section). The total fees required by the NWCAA to administer the program shall be determined by a workload analysis conducted by the staff and approved annually by a resolution by the Board of Directors. Allocation of the fees to individual affected sources shall be based on the following:

1) Ten percent (10%) of the total fees shall be allocated equally among all affected sources.

2) Ninety percent (90%) of the total fees shall be allocated based on actual emissions of regulated pollutants identified in the most recent annual emission inventory or potential emissions if actual data are unavailable. A regulated pollutant for fee calculation shall include:

Nitrogen oxides (NOX);

Volatile organic compounds (VOC's);

Particulate matter with an aerodynamic particle diameter less than or equal to 10 micrometers (PM₁₀);

Sulfur dioxide (SO₂);

Lead; and

Any pollutant subject to the requirements under Section 112(b) of the FCAA not included in any of the above categories.

c) Upon assessment by the NWCAA, fees are due and payable and shall be deemed delinquent if not fully paid within 90 days. Any source that fails to pay a fee imposed under this section within 90 days of the due date shall be assessed a late penalty in the amount of 50 percent of the fee. This late penalty shall be in addition to the fee assessed under this section.

d) The NWCAA shall collect and transfer to the Washington State Department of Ecology a surcharge established by the Department of Ecology to cover the Department of Ecology's program development and oversight costs attributable to subject sources within the NWCAA jurisdiction. Fees for the Department of Ecology shall be allocated to affected sources in the same manner specified in this section.

e) An affected source subject to the operating permit program that is required to pay an annual operating permit program fee shall not be required to pay a registration fee as specified in Section 324.

PASSED: November 12, 1998 AMENDED: November 12, 1999, June 9, 2011, November 17, 2011, August 8, 2024

AMENDATORY SECTION

SECTION 324 - FEES

324.1 Annual Registration Fees

(A) All registered air pollution sources shall pay the appropriate fee(s), which shall be established to cover the cost of administering the program, adjusted periodically based on the three-year average change of the "December annual average - Seattle/Tacoma/Bremerton Consumer Price Index for all Urban Consumers", rounded to the nearest dollar or other index, as set forth in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.

(B) Upon assessment by the NWCAA, registration fees are due and payable. A source shall be assessed a late penalty in the amount of 25 percent of the registration fee for failure to pay the registration fee within 30 days after the due date. The late penalty shall be in addition to the registration fee.

324.2 New Source Review Fees

(A) New source review fees and fees for review of an application to replace or substantially alter the emission control technology installed on an existing stationary source emission unit shall be submitted with each Notice of Construction (NOC) application or request for a NOC applicability determination.

(B) The applicable fee(s) shall be established to cover the direct and indirect costs of processing an application, adjusted periodically based on the three-year average change of the "December annual average - Seattle/Tacoma/Bremerton Consumer Price Index for all Urban Consumers", rounded to the nearest dollar or other index, as set forth in the current fee schedule adopted by Resolution by the Board of Directors of the NWCAA.

324.3 Variance Fee. The applicable fee(s) shall be established in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.

324.4 Issuance of Emission Reduction Credits. The applicable fee(s) shall be established in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.

324.5 Plan and examination, filing, SEPA review, and emission reduction credit fees may be reduced at the discretion of the Control Officer by up to 75 percent for existing stationary sources implementing pollution prevention or undertaking voluntary and enforceable emission reduction projects.

324.6 RACT Fee. The applicable fee(s) shall be established to cover the costs of developing, establishing, or reviewing categorical or case-by-case RACT requirements, adjusted periodically based on the three-year average change of the "December annual average - Seattle/Tacoma/Bremerton Consumer Price Index for all Urban Consumers", rounded to the nearest dollar or other index, as set forth in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA. Fees shall be due and payable upon receipt of invoice and shall be deemed delinquent if not fully paid within 30 days of invoice.

324.7 Order Fee. The applicable fee(s) shall be established to cover the direct and indirect costs of administering the program, adjusted periodically based on the three-year average change of the "December annual average - Seattle/Tacoma/Bremerton Consumer Price Index for all Urban Consumers", rounded to the nearest dollar or other index, as set forth in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.

324.8 Asbestos Program Fee. The applicable fee(s) shall be established to cover the direct and indirect costs of administering the program as set forth in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.

324.9 Agricultural Burning Fee. The applicable fee(s) shall be established as described in RCW 70A.15.5090 (~~(70.94.6528)~~) and WAC 173-430-041 as referenced in NWCAA 104.1 as set forth in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.

324.10 Outdoor Burning Fee. The applicable fee(s) shall be established to cover the cost of administering the program as set forth in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.

324.20 Procedure for Adoption and Revision of Fee Schedules. A proposed resolution that adopts or changes any fee schedules described in this section shall be posted on the NWCAA website for not less than 30 days prior to the Board of Directors meeting at which the Board takes action on the resolution. In addition, an electronic version of

the proposed fee schedule or proposed fee schedule changes shall be provided by e-mail to any person requesting notice of proposed fee schedules or proposed fee schedule changes, not less than 30 days prior to the Board meeting at which such changes are considered. It shall be the ongoing responsibility of a person requesting electronic notice of proposed fee schedule amendments to provide their current e-mail address to the NWCAA; however, no person is required to request such notice. Each notice of a proposed fee schedule or proposed fee schedule change shall provide for a comment period on the proposal of not less than 30 days. Any such proposal shall be subject to public comment at the Board meeting where such changes are considered. No final decision on a proposed fee schedule or proposed fee schedule change shall be taken until the public comment period has ended and any comments received during the public comment period have been considered.

PASSED: November 12, 1998 AMENDED: November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, August 9, 2012, March 14, 2013, September 11, 2014, August 8, 2024

AMENDATORY SECTION

SECTION 350 - VARIANCES

350.1 Any person who owns or is in control of any plant, building, structure, establishment, process or equipment including a group of persons who own or control like processes or like equipment may apply to the board for a variance from the rules or Regulation 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 Board may grant such variance, but only after public hearing or due notice, if it finds that:

(A) The emissions occurring or proposed to occur do not endanger public health or safety; and

(B) Compliance with the rules or Regulation from which variance is sought would produce serious hardship without equal or greater benefits to the public.

350.2 No variance shall be granted pursuant to this Section until the Board has considered the relative interests of the applicant, other owners or property likely to be affected by the discharge, and the general public.

350.3 Any variance or renewal thereof shall be granted within the requirements of Section 350.1 and for time periods and under conditions consistent with reasons therefore, and with the following limitations:

(A) 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 becomes known and available, and subject to the taking of any substitute or alternate measure that the Board may prescribe.

(B) If the variance is granted on the ground that compliance with the particulate requirements or requirement 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 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.

(C) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided in subsection 350.3(A) and 350.3(B), it shall be for not more than one year.

350.4 Any variance granted pursuant to this Section may be renewed on terms and conditions and for periods which would be appropriate under all circumstances including the criteria considered on the initial granting of a variance and that acquired during the existence of the variance. If a 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 thereof. Any such application shall be made at least sixty (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 the rules and Regulation of the Board.

350.5 A variance or renewal shall not be a right of the applicant or holder thereof but shall be 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 under the provisions of Section 123 or Chapter 43.21B RCW as now or hereafter amended.

350.6 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 70A.15.6010 (~~(70.94.715)~~) to any person or his property.

PASSED: January 8, 1969 AMENDED: October 1, 1969, February 14, 1973, January 9, 1974, September 8, 1993, March 14, 2013, August 8, 2024

AMENDATORY SECTION

SECTION 502 - OUTDOOR BURNING

502.1 PURPOSE. This section establishes a program to implement the limited burning policy authorized by sections of the Washington Clean Air Act (chapter 70A.15 (~~(70.94)~~) RCW as referenced in NWCAA 104.1) pertaining to outdoor burning.

502.2 APPLICABILITY.

(A) This section specifically applies to:

- (1) Residential burning.
- (2) Land clearing burning.
- (3) Recreational fires.
- (4) Indian ceremonial fires.
- (5) Weed abatement fires.
- (6) Firefighting instruction fires.
- (7) Rare and endangered plant regeneration fires.
- (8) Storm or flood debris burning.
- (9) Tumbleweed burning.
- (10) Other outdoor burning.

(B) This section does not apply to:

(1) Agricultural burning (which is governed by chapter 173-430 WAC as referenced in NWCAA 104.1);

(2) Any outdoor burning on lands within the exterior boundaries of Indian reservations (unless provided for by intergovernmental agreements); and

(3) Silvicultural burning (which is governed by chapter 332-24 WAC, the Washington state smoke management plan, and various laws including chapter 70A.15 (~~(70.94)~~) RCW as referenced in NWCAA 104.1).

502.3 DEFINITIONS. Unless a different meaning is clearly required by context, words and phrases used in this section shall have the following meanings:

AGRICULTURAL BURNING - Fires regulated under chapter 173-430 WAC as referenced in NWCAA 104.1, including, but not limited to, any incidental agricultural burning or agricultural burning for pest or disease control.

AIR POLLUTION EPISODE - A period when a forecast, alert, warning, or emergency air pollution stage is declared, as stated in chapter 173-435 WAC as referenced in NWCAA 104.1.

CONSTRUCTION/DEMOLITION DEBRIS - All material manufactured for or resulting from the construction, renovation, or demolition of buildings, roads, and other man-made structures.

FIREFIGHTING INSTRUCTION FIRES - Fires for instruction in methods of fire-fighting, including, but not limited to, training to fight structural fires, aircraft crash rescue fires, and forest fires.

FIREWOOD - Bare, untreated wood used as fuel in a solid fuel burning device, Indian ceremonial fire, or recreational fire.

IMPAIRED AIR QUALITY - A first or second stage impaired air quality condition declared by Ecology or the NWCAA in accordance with WAC 173-433-140 as referenced in NWCAA 104.1.

INDIAN CEREMONIAL FIRE - Fires necessary for Native American ceremonies (i.e., conducted by and for Native Americans) if part of a religious ritual.

LAND CLEARING BURNING - Outdoor burning of trees, stumps, shrubbery or other natural vegetation from land clearing projects (i.e., projects that clear the land surface so it can be developed, used for a different purpose, or left unused).

NATURAL VEGETATION - Unprocessed plant material from herbs, shrubbery, and trees, including grass, weeds, leaves, clippings, prunings, brush, branches, roots, stumps, and trunk wood.

NONATTAINMENT AREA - A clearly delineated geographic area designated by the Environmental Protection Agency at 40 CFR Part 81 as exceeding (or that contributes to ambient air quality in a nearby area that exceeds) 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.

NONURBAN AREAS - Unincorporated areas within a county that are not designated as an urban growth area.

NUISANCE - For purposes of outdoor burning, an emission of smoke or any other air contaminant from an outdoor fire that unreasonably interferes with the use and enjoyment of the property upon which it is deposited.

OTHER OUTDOOR BURNING - Outdoor burning other than residential burning, land clearing burning, storm or flood debris burning, tumbleweed burning, weed abatement fires, firefighting instruction fires, rare and endangered plant regeneration fire, Indian ceremonial fires, and recreational fires. It includes, but is not limited to, any outdoor burning necessary to protect public health and safety.

OUTDOOR BURNING - The combustion of any material in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion. Outdoor burning means all types of outdoor burning except agricultural burning, burning on lands within the exterior boundaries of Indian reservations (unless provided for by intergovernmental agreements), and silvicultural burning.

PERMITTING AGENCY - The agency responsible for issuing permits for a particular type of outdoor burning (including adopting a general permit) and/or enforcing all requirements of this section unless another agency agrees to be responsible for certain enforcement activities in accordance with WAC 173-425-060 (1)(a) and (6) as referenced in NWCAA 104.1.

POLLUTANTS EMITTED BY OUTDOOR BURNING - Carbon monoxide, carbon dioxide, particulate matter, sulfur dioxide, nitrogen oxides, lead, and various volatile organic compounds and toxic substances.

RARE AND ENDANGERED PLANT REGENERATION FIRES - Fires necessary to promote the regeneration of rare and endangered plants found within natural area preserves as identified in chapter 79.70 RCW.

REASONABLE ALTERNATIVE - A method for disposing of organic refuse (such as natural vegetation) that is available, reasonably economical, and less harmful to the environment than burning, including, but not limited to, waste reduction, recycling, energy recovery or incineration, and landfill disposal.

RECREATIONAL FIRE - Cooking fires, campfires, and bonfires using charcoal or firewood that occur in designated areas or on private property for cooking, pleasure, or ceremonial purposes. Fires used for debris disposal purposes are not considered recreational fires.

RESIDENTIAL BURNING - The outdoor burning of leaves, clippings, prunings and other yard and gardening refuse originating on lands immediately adjacent and in close proximity to a human dwelling and burned on such lands by a responsible person.

RESPONSIBLE PERSON - Any of the following:

- (1) Any person who has applied for and received a permit for outdoor burning, or
- (2) Any person allowing, igniting or attending to an outdoor fire, or
- (3) Any person who owns or controls property on which an outdoor fire occurs.

SILVICULTURAL BURNING - Fires relating to the following activities for the protection of life or property and/or the public health, safety, and welfare:

- (1) Abating a forest fire hazard;
- (2) Prevention of a forest fire hazard;
- (3) Instruction of public officials in methods of forest fire-fighting;
- (4) Any silvicultural operation to improve the forest lands of the state; and
- (5) Silvicultural burning used to improve or maintain fire-dependent ecosystems for rare plants or animals within the state, federal, and private natural area preserves, natural resource conservation areas, parks, and other wildlife areas.

STORM OR FLOOD DEBRIS BURNING - Fires consisting of natural vegetation deposited on lands by storms or floods that have occurred in the previous two years and resulted in an emergency being declared or proclaimed in the area by the city, county, or state government and burned on such lands by a responsible person.

TUMBLEWEED BURNING - Outdoor burning to dispose of dry plants (typically Russian Thistle and Tumbleweed Mustard plants) that have been broken off and rolled about by the wind.

URBAN GROWTH AREA - Land, generally including and associated with an incorporated city, designated by a county for urban growth under RCW 36.70A.030.

WEED ABATEMENT FIRES - Outdoor burning to dispose of weeds that is not regulated under chapter 173-430 WAC as referenced in NWCAA 104.1, the Agricultural Burning rule.

502.4 PROHIBITIONS AND RESTRICTIONS APPLYING TO ALL OUTDOOR BURNING. The following general requirements apply to all outdoor burning regulated by this section, including any outdoor burning allowed without a permit, unless a specific exception is stated in this section. A fire protection agency, county, or conservation district may enforce its own controls that are stricter than those set forth in this section.

(A) No person may cause or allow an outdoor fire in an area where the type of burning involved is prohibited under NWCAA 502.6, or where it requires a permit under NWCAA 502.5(B), unless a permit has been issued and is in effect.

(B) PROHIBITED MATERIALS. It shall be unlawful for any person to cause or allow any outdoor fire containing garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper (other than what is necessary to start a fire), cardboard, treated wood, construction/demolition debris, metal or any substance (other than natural vegetation) that normally releases toxic emissions, dense smoke, or obnoxious odors when burned except as follows:

(1) Aircraft crash rescue training fires approved and conducted in compliance with RCW 70A.15.5090 (~~(70.94.6528)~~) as referenced in NWCAA 104.1 may contain uncontaminated petroleum products.

(2) Ecology or the NWCAA may allow the limited burning of prohibited materials for other firefighting instruction fires, including those that are exempt from permits under NWCAA 502.5 (B)(6).

(3) Other outdoor burning necessary to protect public health and safety.

(C) HAULED MATERIAL.

(1) No outdoor fire may contain material (other than firewood) that has been hauled from an area where outdoor burning of the material is prohibited.

(2) Any outdoor burning of material hauled from areas where outdoor burning of the material is allowed requires an appropriate permit. Any property used for this purpose on an on-going basis must be:

(a) Limited to the types of burning listed in WAC 173-351-200

(5)(b) as referenced in NWCAA 104.1 (criteria for municipal solid waste landfills), and

(b) Approved in accordance with other laws, including chapter 173-304 WAC as referenced in NWCAA 104.1 (minimum functional standards for solid waste handling) and chapter 173-400 WAC as referenced in NWCAA 104.1 (general regulations for air pollution sources).

(D) CURTAILMENTS. During episodes or periods of impaired air quality, a responsible person for the fire must contact the permitting agency and/or any other designated source for information on the burning conditions for each day.

(1) No outdoor fire shall be ignited in a geographical area where:

(a) Ecology has declared an air pollution episode;

(b) Ecology or the NWCAA has declared an impaired air quality condition for the county; or

(c) The appropriate fire protection authority has declared a fire danger burn ban, unless the NWCAA grants an exception.

(2) A responsible person for an outdoor fire shall extinguish the fire when an air pollution episode, an impaired air quality condition, or fire danger burn ban that applies to the burning is declared.

(a) Smoke visible from all types of outdoor burning, except land clearing burning, after a time period of three hours has elapsed from the time an air pollution episode, impaired air quality condition, or fire danger burn ban is declared shall constitute prima facie evidence of unlawful outdoor burning.

(b) Smoke visible from land clearing burning after a time period of eight hours has elapsed from the time an air pollution episode, impaired air quality condition, or fire danger burn ban is declared shall constitute prima facie evidence of unlawful outdoor burning.

(E) UNLAWFUL OUTDOOR BURNING/NUISANCE. It is unlawful for any person to cause or allow outdoor burning that causes an emission of smoke or any other air contaminant that is detrimental to the health, safety, or welfare of any person, that causes damage to property or business, or that causes a nuisance.

(F) BURNING IN OUTDOOR CONTAINERS. Outdoor containers (such as burn barrels and other wood waste incinerators not regulated under NWCAA Section 458, used for outdoor burning, must be constructed of concrete or masonry with a completely enclosed combustion chamber and equipped with a permanently attached spark arrester constructed of iron, heavy wire mesh, or other noncombustible material with openings not larger than 0.5 inch, and they may only be used in compliance with this section.

(G) OTHER GENERAL REQUIREMENTS.

(1) A person capable of extinguishing the fire must attend it at all times and the fire must be extinguished before leaving it.

(2) No fires are to be within 50 feet of structures.

(3) Permission from a landowner or owner's designated representative must be obtained before starting an outdoor fire.

502.5 OUTDOOR BURNING PERMIT PROGRAM/REQUIREMENTS

(A) PERMIT PROGRAM.

(1) The NWCAA may consult with fire protection authorities, conservation districts, or counties to determine if any of these agencies are capable and willing to serve as the permitting agency and/or enforcing agency for particular types of burning.

(2) The NWCAA may enter into agreements with any capable agencies to identify the permitting agencies and enforcing agencies for each type of burning and determine the type of permit appropriate for each where a permit is required.

(3) Permitting agencies may use a verbal, electronic, written, or general permit established by rule for any type of outdoor burning that requires a permit.

(4) A written permit should be used, where feasible, for land clearing burning, storm or flood debris burning in areas where residential burning and land clearing burning are prohibited under NWCAA 502.6 (A), (B), or (C), and other outdoor burning (except any other outdoor burning necessary to protect public health and safety).

(5) Any person having an outstanding penalty obligation to the NWCAA as a result of a violation of Section 502, except under appeal to the Pollution Control Hearings Board (PCHB) or other judicial body, shall be denied additional outdoor burning permits until the remaining balance is paid.

(B) TYPES OF BURNING THAT REQUIRE A PERMIT. Except as otherwise stated, a permit is required for the following types of outdoor burning:

(1) Residential burning (except in nonurban areas of any county with an unincorporated population of less than 50,000);

(2) Land clearing burning;

(3) Storm or flood debris burning;

(4) Tumbleweed burning (except in counties with a population of less than 250,000;

(5) Weed abatement fires;

(6) Firefighting instruction fires for training to fight structural fires in urban growth areas and cities with a population over 10,000, and all other firefighting instruction fires, except:

(a) Firefighting instruction fires for training to fight structural fires as provided in RCW 52.12.150;

(b) Aircraft crash rescue fires as provided in RCW 70.94.650(5) as referenced in NWCAA 104.1; and

(c) Forest fires;

(7) Rare and endangered plant regeneration fires;

(8) Indian ceremonial fires (except on lands within the exterior boundaries of Indian reservations unless provided for by intergovernmental agreement);

(9) Recreational fires with a total fuel area greater than three feet in diameter and/or two feet in height (except in the nonurban areas of counties with an unincorporated population of less than 50,000); and

(10) Other outdoor burning if specifically authorized by the NWCAA.

(C) FEES.

The fee for outdoor burning permits shall be as established in NWCAA 324.10. The amount of the fee will not exceed the level necessary to recover the costs of administering and enforcing a permit program.

(D) REQUIREMENTS FOR RESIDENTIAL BURNING.

The following conditions apply to all residential burning allowed without a permit under NWCAA 502.5 (B)(1) or allowed under a general, verbal, written, or electronic permit. Persons unable to meet these requirements and the requirements in NWCAA 502.4 must apply for and receive a written permit before burning. Failure to comply with all applicable requirements voids any applicable permit.

(1) A responsible person for the fire must contact the permitting agency and/or any other designated source for information on the burning conditions of each day.

(2) A fire may not be ignited, and must be extinguished, if an air pollution episode, impaired air quality condition, or fire danger burn ban that applies to the burning, is declared for the area.

(3) The fire must not include prohibited materials as listed in NWCAA 502.4(B).

(4) The fire must not include materials hauled from another property.

(5) If any emission from the fire is detrimental to the health, safety, or welfare of any person, if it causes damage to property or business, or if it causes a nuisance, the fire must be extinguished immediately.

(6) A person capable of extinguishing the fire must attend it at all times and the fire must be extinguished before leaving it.

(7) No fires are to be within 50 feet of structures.

(8) Permission from a landowner, or owner's designated representative, must be obtained before starting an outdoor fire.

(9) Any burn pile must not be larger than four feet in diameter and three feet high.

(10) Only one pile at a time may be burned, and each pile must be extinguished before lighting another.

(11) If an outdoor container is used for burning, it must be constructed of concrete or masonry with a completely enclosed combustion chamber and equipped with a permanently attached spark arrester constructed of iron, heavy wire mesh, or other noncombustible material with openings not larger than 0.5 inch.

(12) No fire is allowed within 500 feet of forest slash.

(E) FIELD RESPONSE AND ENFORCEMENT

(1) Any agency that issues permits, or adopts a general permit for any type of burning in an area, is responsible for field response to outdoor burning complaints and enforcement of all permit conditions and requirements unless another agency has agreed to be responsible.

(2) Except for enforcing Section 502.4 (E)(1)(d), the NWCAA will be responsible for enforcing any requirements that apply to burning that are prohibited or exempt from permits in areas of its jurisdiction, unless another agency agrees to be responsible.

(3) Permitting agencies and enforcing agencies may require that corrective action be taken, and may assess penalties to the extent allowed if they discover noncompliance.

502.6 AREAS AND TYPES OF PROHIBITED OUTDOOR BURNING.

(A) NONATTAINMENT AREAS. Residential burning and land clearing burning shall not occur in any areas that exceed federal or state ambient air quality standards for pollutants emitted by outdoor burning. These areas are limited to all nonattainment areas and former nonattainment areas for carbon monoxide, particulate matter (PM₁₀ and PM_{2.5}), sulfur dioxide, nitrogen dioxide, and lead.

(B) URBAN GROWTH AREAS. No person shall cause or allow residential burning and land clearing burning in any urban growth areas.

(C) CITIES OVER 10,000 POPULATION. Residential burning and land clearing burning shall not occur in any cities having a population greater than 10,000 people. Cities having this population must be identified by using the most current population estimates available for each city.

(D) HIGH DENSITY AREAS. Land clearing burning shall not occur in any area having a general population density of 1,000 or more persons per square mile. All areas having this density must be identified by using the most current population data available for each census block group and dividing by the land area of the block group in square miles.

(E) AREAS WITH A REASONABLE ALTERNATIVE TO BURNING. Residential burning, land clearing burning, storm or flood debris burning, tumbleweed burning, weed abatement fires and other outdoor burning of organic refuse shall not occur in any area, including the areas identified in subsections 502.6(A) through 502.6(D), when a reasonable alternative for that type of burning is found to exist in the area for that type of burning. A reasonable alternative for a particular type of burning exists when the alternative is available and reasonably economical and less harmful to the environment as defined in WAC 173-425-040(5) as referenced in NWCAA 104.1.

(F) No person shall cause or allow outdoor burning at permanently-located business establishments excluding land clearing operations.

PASSED: January 8, 1969 AMENDED: June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, September 11, 2014, August 8, 2024

AMENDATORY SECTION

SECTION 504 - AGRICULTURAL BURNING

504.1 Purpose. This Section establishes fees and controls for agricultural burning in the NWCAA jurisdiction in order to minimize adverse health effects and environmental impacts, consistent with best management practices and the responsibilities of the NWCAA under chap-

ter 173-430 WAC as referenced in NWCAA 104.1, RCW 70A.15.5090 ((70.94.6528)) as referenced in NWCAA 104.1, 70A.15.5110 ((70.94.6532)) as referenced in NWCAA 104.1, and 70A.15.5070 ((70.94.6524)) as referenced in NWCAA 104.1. All agricultural burning as defined in chapter 173-430 WAC as referenced in NWCAA 104.1 shall be conducted in accordance with the provisions of that chapter.

504.2 Applicability. This Section applies to agricultural burning in all areas of the NWCAA jurisdiction unless specifically exempted. Nothing in Section 504 shall apply to silvicultural burning or other outdoor burning. Propane flaming for the purpose of vegetative debris removal is considered agricultural burning.

504.3 Conditions. All agricultural burning, except for agricultural burning that is incidental to commercial agricultural activities, requires a permit and payment of a fee issued by the NWCAA.

504.4 Fees. In accordance with RCW 70A.15.5090 ((70.94.6528)) as referenced in NWCAA 104.1, the NWCAA shall assess a fee for all agricultural burning permits as specified in NWCAA 324.9.

PASSED: February 14, 1973 AMENDED: August 9, 1978, June 7, 1990, May 9, 1996, May 14, 1998, November 12, 1998, November 8, 2007, September 11, 2014, August 8, 2024

AMENDATORY SECTION

SECTION 506 - SOLID FUEL BURNING DEVICES

506.1 PURPOSE

This Section establishes emission standards, certification standards and procedures, burn ban rules, and fuel restrictions for solid fuel burning devices in order to maintain compliance with the National Ambient Air Quality Standards (NAAQS) for PM_{2.5} and to further the policy of the NWCAA as stated in Section 102 of this Regulation.

506.2 DEFINITIONS

All terms not defined herein shall have the meaning given them in WAC 173-433-030 as referenced in NWCAA 104.1 and NWCAA Section 200.

CERTIFIED - Meeting at least one of the following:

(1) Has been determined by Ecology to meet Washington emission performance standards pursuant to RCW 70A.15.3530 ((70.94.457)) and WAC 173-433-100 as referenced in NWCAA 104.1;

(2) Meets EPA emission performance standards when tested by an accredited independent laboratory and labeled according to procedures specified by EPA in 40 CFR 60 Subpart AAA as referenced in NWCAA 104.2; or

(3) Was manufactured prior to 1989 and meets the "Oregon Department of Environmental Quality Phase 2" emissions 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.

506.3 EMISSION PERFORMANCE STANDARDS

(A) Solid Fuel Burning Devices. Except as provided in Sections 506.3 (B) and (C), a person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away any solid fuel burning device unless it complies with WAC 173-433-100 as referenced in NWCAA 104.1 which includes meeting the following particulate air contaminant emission standards:

(1) 2.5 g/hr for catalytic woodstoves and

(2) 4.5 g/hr for all other solid fuel burning devices.

(B) Fireplaces. Except as provided in NWCAA 506.3(C), a person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away a factory-built fireplace unless it meets 40 CFR 60 Subpart AAA as referenced in NWCAA 104.2 or equivalent standard that may be established by the state building code council by rule. Particulate emissions from factory-built fireplaces shall not exceed 7.3 g/kg.

(C) Solid fuel burning devices which have been rendered permanently inoperable are exempt from NWCAA 506.3 (A) and (B).

506.4 INSTALLATION OF SOLID FUEL BURNING DEVICES

(A) No new or used solid fuel burning device shall be installed in new or existing buildings unless such device meets Washington state emission performance standards in WAC 173-433-100 as referenced in NWCAA 104.1. Any solid fuel burning device not meeting the applicable standards at the time of installation must be removed or rendered permanently inoperable.

(B) An adequate source of heat other than a solid fuel burning device is required in all new and substantially remodeled residential and commercial construction. The rule shall apply to:

(1) Areas designated by a county to be an urban growth area under chapter 36.70A RCW and

(2) Areas designated by the EPA as being in nonattainment for particulate matter.

506.5 OPACITY STANDARDS

(A) Opacity level. Any person shall not cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of 20 percent opacity for 6 consecutive minutes in any 1-hour period. This limit does not apply during the starting of a new fire for a period not to exceed 20 minutes in any 4-hour period.

(B) Test methods and procedures. EPA Method 9 or EPA Alternative Method 082 will be used to determine compliance with 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 an applicable solid fuel burning device. This presumption may be refuted by demonstration that the smoke was not caused by an applicable solid fuel burning device.

506.6 FUEL TYPES

(A) A person shall cause or allow only the following materials to be burned in a solid fuel burning device:

(1) Seasoned wood,

(2) An amount of paper necessary for starting a fire, and

(3) Coal with sulfur content less than 1.0% by weight burned in a coal stove.

(B) All other materials are prohibited from being burned in a solid fuel burning device, including, but not limited to: garbage, treated 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 when burned.

506.7 AIR QUALITY BURN BANS

(A) Stage 1 Burn Ban

No person shall operate a solid fuel burning device located in a geographic area for which NWCAA has called a Stage 1 Burn Ban unless the solid fuel burning device is certified or a non-affected pellet stove except as provided in NWCAA 506.8.

(1) A Stage 1 Burn Ban may be called when forecasted meteorological conditions are predicted to cause PM_{2.5} levels to reach or exceed 35 micrograms per cubic meter, measured on a 24-hour average, within 48 hours, except for areas of PM_{2.5} nonattainment or areas at risk for PM_{2.5} nonattainment.

(2) For a county containing PM_{2.5} nonattainment areas or areas at risk for PM_{2.5} nonattainment, and, when feasible, only for the necessary portions of the county, a Stage 1 Burn Ban may be called when forecasted meteorological conditions are predicted to cause PM_{2.5} levels to reach or exceed 30 micrograms per cubic meter, measured on a 24-hour average, within 72 hours.

(B) Stage 2 Burn Ban

No person shall operate a solid fuel burning device located in a geographic area for which NWCAA has called a Stage 2 Burn Ban except as provided in NWCAA 506.8.

(1) A Stage 2 Burn Ban may be called when:

(a) A Stage 1 Burn Ban is already in effect and has not reduced the trend of rising PM_{2.5} levels adequately;

(b) The 24-hour average of PM_{2.5} levels have already reached or exceeded 25 micrograms per cubic meter; and

(c) Forecasted meteorological conditions are not expected to allow levels of PM_{2.5} to decline below 25 micrograms per cubic meter for a period of 24 hours or more from the time that PM_{2.5} is measured at the trigger level.

(2) A Stage 2 Burn Ban may be called without first calling a Stage 1 Burn Ban only when all of the following occur:

(a) PM_{2.5} levels have reached or exceeded 25 micrograms per cubic meter, measured on a 24-hour average;

(b) Meteorological conditions have caused PM_{2.5} levels to rise rapidly;

(c) Meteorological conditions are predicted to cause PM_{2.5} levels to exceed 35 micrograms per cubic meter, measured on a 24-hour average, within 24 hours; and

(d) Meteorological conditions are highly likely to prevent sufficient dispersion of PM_{2.5}.

(3) For a county containing PM_{2.5} nonattainment areas or areas at risk for PM_{2.5} nonattainment and, when feasible, only the necessary portions of the county, a Stage 2 Burn Ban may be called without first calling a Stage 1 Burn Ban only when NWCAA 506.7 (B) (2) (a), (b), and (d) have been met and meteorological conditions are predicted to cause PM_{2.5} levels to reach or exceed 30 micrograms per cubic meter, measured on a 24-hour average, within 24 hours.

(C) Air Pollution Episode Declared by Ecology

No person shall operate a solid fuel burning device located in a geographic area for which Ecology has declared an alert, warning, or emergency air pollution episode pursuant to WAC 173-433-150(3), chapter 173-435 WAC, and RCW 70A.15.6010 ((70.94.715)) as referenced in NWCAA 104.1.

(D) Upon declaration and for the duration of a Stage 1 or Stage 2 Burn Ban or an air pollution episode, new solid fuel shall be withheld from any solid fuel burning device that is restricted from operating under NWCAA 506.7 (A), (B), and (C).

(E) Smoke visible from a chimney, flue, or exhaust duct after 3 hours has elapsed from the time of declaration of a Stage 1 or Stage 2

Burn Ban or an air pollution episode shall constitute prima facie evidence of unlawful operation of a solid fuel burning device if that solid fuel burning device is restricted from operating under NWCAA 506.7 (A), (B), and (C). This presumption may be refuted by demonstration that the smoke was not caused by a restricted solid fuel burning device.

506.8 EXEMPTIONS

(A) The provisions of NWCAA 506.7 do not apply to any person who possesses a valid exemption approved by NWCAA. NWCAA may issue exemptions to any person who demonstrates any of the following to the satisfaction of NWCAA:

(1) One-Time 10-Day Temporary Exemption

NWCAA may issue one-time 10-day temporary solid fuel burning device exemptions if persons making such requests indicate they qualify for an exemption under NWCAA 506.8 (A) (2), (3), or (4) and provide all of the information below. Unless required otherwise by NWCAA, such exemption requests may be taken via telephone.

(a) Full name,

(b) Mailing address,

(c) Telephone number,

(d) The exemption under NWCAA 506.8 (A) (2), (3), or (4) for which the applicant believes they qualify,

(e) Physical address where the exemption applies,

(f) Description of the habitable space for which the exemption is being requested,

(g) A statement that the applicant has not previously requested such an exemption for the same physical address. Exceptions may be allowed for unrelated breakdowns of the primary heat source, and

(h) A statement that all of the information provided is accurate.

(2) Low Income

NWCAA may issue written low income exemptions. The applicant must demonstrate an economic need to burn solid fuel for residential space heating purposes by qualifying under the low income energy assistance program (LIEAP) pursuant to economic guidelines established by the U.S. Office of Management and Budget.

(3) Temporary Breakdown of Primary Heat Source

NWCAA may issue written exemptions for a residence or commercial establishment if all of the following apply:

(a) A person in a residence or commercial establishment does not have an adequate source of heat without using a solid fuel burning device.

(b) The applicant demonstrates that the primary heating system, other than a solid fuel burning device, is temporarily inoperable for reasons other than the applicant's own actions. When applying for this exemption, the applicant must submit a compliance schedule for bringing the primary heating system, other than a solid fuel burning device, back into operation to be used as the primary heating source. Unless otherwise approved by NWCAA, exemptions will be limited to 30 calendar days.

A person's income level is not a determining factor in the approval or denial of an exemption under this provision. Exemptions based on income level are addressed in NWCAA 506.8 (A) (2).

(4) No Adequate Source of Heat

NWCAA may issue written exemptions for a residence if both of the following apply:

(a) The residence was constructed prior to July 1, 1992 and

(b) A person in the residence does not have an adequate source of heat without using a solid fuel burning device.

A person's income level is not a determining factor in the approval or denial of an exemption under this provision. Exemptions based on income level are addressed in NWCAA 506.8 (A)(2).

(B) Exemption Duration and Renewals

Unless otherwise specified, written exemptions will expire June 30th of each year. Exemptions in NWCAA 506.8 (A)(2), (3), and (4) may be renewed by NWCAA, provided the applicant meets the applicable requirements at the time of exemption renewal. For renewals under NWCAA 506.8 (A)(2), the applicant must demonstrate the low income status is met each time application is made. Exemption requests may be denied by NWCAA, regardless of the applicant's exemption history.

(C) Residential and Commercial Exemption Limitations

Except for commercial establishments qualifying under NWCAA 506.8 (A)(3), exemptions are limited to residences. Exemptions are limited to normally inhabited areas of a residence, which includes areas used for living, sleeping, cooking, and eating. Exemptions will not be issued for attached and detached garages, shops, and outbuildings. For commercial establishments, exemptions will be limited to areas identified in the exemption.

PASSED: July 14, 2005 AMENDED: November 8, 2007, October 8, 2015, August 11, 2016, August 8, 2024

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