

WSR 20-07-094
PROPOSED RULES
SPOKANE REGIONAL
CLEAN AIR AGENCY

[Filed March 17, 2020, 11:42 a.m.]

Original Notice.

Proposal is exempt under RCW 70.94.141(1).

Title of Rule and Other Identifying Information: Amend Spokane regional clean air agency (SRCAA) Regulation I, Articles I, II, IV, and V, and some sections of Articles VI and X.

Hearing Location(s): On Tuesday, June 16, 2020, at 6:00 p.m.; and Thursday, July 9, 2020, at 9:30 a.m., at SRCAA Office, 3104 East Augusta Avenue, Spokane, WA 99207. Comment period: May 1, 2020 - July 9, 2020, ending at the close of the July 9, 2020, hearing.

Date of Intended Adoption: July 9, 2020.

Submit Written Comments to: Margee Chambers, 3104 East Augusta Avenue, Spokane, WA 99207, email PublicComment@spokanecleanair.org, fax 509-477-6828, by July 9, 2020, close of hearing. Note, please submit written comments by July 6, 2020, for comments to be included in the July 9, 2020, prehearing presentation.

Assistance for Persons with Disabilities: Contact Mary Kataoka, phone 509-477-4727 ext. # 100, fax 509-477-6828, email mkataoka@spokanecleanair.org, by July 6, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Updates throughout Articles I, II, IV, V, VI, and X include: Formatting improvements for consistency among Articles in SRCAA Regulation I; clarification edits to improve ease of use, understanding, and improved readability of the Articles; correct typographical and spelling errors; remove obsolete text; update citing; and updates to improve consistency between local regulations and state and federal regulations. The summary below highlights additional proposed amendments.

Article I, amend Sections 1.01 - 1.04, new Section 1.05:

- Section 1.01: Update text to improve consistency with state and federal requirements and SIP approvability.
- Section 1.04: Modify and add definitions to align with state chapter 173-400 WAC definitions and federal clean air act definitions; number the definitions to provide consistency with other Articles in Regulation I; remove definitions no longer needed in Regulation I; move closure procedure to Article IV, Section 4.05; and move upset condition definition from Article II to 1.04.
- Add new Section 1.05 to improve ease of use and understanding of acronyms and measurements abbreviations used in Regulation I.

Article II, amend Sections 2.01 - 2.15, new Sections 2.16 - 2.19:

- Section 2.02: Add new subsection (J) to explain source records requirement.
- Section 2.07: Update with 2004 repeal information.
- Section 2.09: Remove obsolete definitions; move "mal-function" to Article I; change order of subsections; include email as an allowable form of communication; expand test methods text for clarification and SIP

approvability; and eliminate combustion tests subsection because requirements are included in an order of approval.

- Section 2.13: Add a single point adoption by reference date for both state and federal rules; add clarification text for federal rules for administrator and reports.
- Section 2.14: Update adoption by reference to show what WACs SRCAA is adopting by reference, rather than what SRCAA is excluding.
- Add new federal adoption by reference Sections 2.16, 2.17, 2.18, and 2.19.

Article IV, amend Sections 4.01 - 4.04, new Section 4.05:

- Section 4.01: Add new subsections explaining purpose and program components for clarification purposes, and improve consistency with state requirements.
- Section 4.02: Restructure section; simplify text; add new fee subsection and operation and maintenance plan subsection; and move closure text to 4.05.
- Section 4.03: Update exemption text to provide clarity on what is exempt from registration and exemption requirements.
- Exhibit R: Rename Exhibit R to Section 4.04; restructure from one long list of sources to grouping in five categories: State requirements, local requirements, operation type, equipment type, toxic air pollutants, to improve ease of use by the agency staff and regulated sources; add new General Order of Approval option; update list to include source categories that the agency has been registering but were not previous[ly] specified in Exhibit R - source categories to uncontrolled emission rates - distilleries, general surface coating operations that only use nonspray application methods, nonperchloroethylene dry cleaning operations, fume hoods, plasma or laser cutters, welding, brazing or soldering operations; and operation types - alternative commercial fuel production facilities, Portland cement production facilities.
- Add new Section 4.05 by moving closure procedural text from Sections 1.04 and 4.02 to Section 4.05, to improve ease of use and understanding of the requirements.

Article V, amend Sections 5.01 - 5.15:

- Section 5.01: Update to include 2004 repeal information.
- Section 5.02: Rework section to improve flow and clarity; add new subsections for purpose and applicability; change name of Notice of Intent (NOI) application to a Portable Source Permit (PSP) application; clarify text on when an [a] Notice of Construction (NOC) or PSP is required; and improve consistency with state and federal requirements; and update exemption subsection to provide clarity on what is exempt from new source review and exemption requirements.
- Section 5.03: Simplify text.
- Section 5.04: Updates to clarify what information the source must provide so that they [the] agency can make a determination; and improve consistency with state and federal requirements.
- Section 5.05: Updates to clarify noticing, comment period and hearing requirements; improve consistency

with state and federal requirements; and allow e-noticing.

- Section 5.06: Clarify application completeness requirements.
- Section 5.07: Update subsection (A) to improve consistency with state and federal requirements and clarify criteria that must be met for approval of NOC applications; clarify steps for the agency to take when a determination has been made; improve the flow of subsection (B) and include steps for agency to take when a determination has been made.
- Section 5.08: Change NOI to PSP; simplify the permitting requirements for a portable source eliminating requirement to first obtain a [an] NOC prior to obtaining an NOI; update nonroad engine requirements; update exemption subsection to provide clarity on what is exempt from PSP and exemption requirements.
- Section 5.09: Simplify operation and maintenance and compliance subsections; remove duplicative text that is housed in 5.07; add new subsection (C) with operating requirements for internal combustion engines.
- Section 5.10: Simplify text; add transfer of ownership information that was housed in Section 5.02; and clarify change in conditions text.
- Sections 5.11 - 5.15: Simplify text and improve readability.

Article VI, amend Sections 6.01 - 6.09, 6.11 - 6.15 and 6.17:

- Section 6.03: Subsection (A) clarification and SIP approvability updates.
- Section 6.04: Subsection (B) updates to improve consistency with state requirements and SIP approvability.
- Repeal Section 6.06, duplicative of 6.04(C).
- Section 6.07: Updates to improve consistency with WAC 173-400-040(8) and SIP approvability.
- Section 6.09: Update with 2004 repeal information.
- Section 6.12: Update with reserve information.
- Section 6.13: Remove subsection (H) compliance schedule.
- Section 6.15: Subsection (A) align applicability text to be the same as 6.14(A).

Article X, amend Sections 10.02, 10.06 - 10.08, 10.11, and 10.13:

- Section 10.02: Update subsection (C) to exclude AOP from round up to nearest dollar requirements.
- Section 10.06: Updates for clarification; and add consolidated to fee schedule.
- Section 10.07: Change NOI to PSP; add consolidated to fee schedule; change recent to preceding; and update greater/less than symbols to words.
- Section 10.08: Change NOI to PSP; add consolidated to fee schedule; change recent to preceding, and update citing.
- Section 10.11: Update with 2005 repeal information.
- Section 10.13: Update citing; add consolidated to fee schedule; and change recent to preceding.

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

Reasons Supporting Proposal: SRCAA Regulation I establishes the regulatory framework and control strategies to ensure that healthy air quality exists in Spokane County, Washington, including meeting the federal air quality standards. The proposed amendments update Regulation I to meet requirements in chapter 173-400 WAC and the federal New Source Review regulations to ensure that Spokane clean air is consistent with state and federal Clean Air Acts while attaining and maintaining good air quality and protecting citizens' health.

Statutory Authority for Adoption: RCW 70.94.141.

Statute Being Implemented: The Washington Clean Air Act, chapter 70.94 RCW; the Federal Clean Air Act, 42 U.S.C. 7401 et. seq.

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

Name of Proponent: SRCAA, governmental.

Name of Agency Personnel Responsible for Drafting: Margee Chambers, SRCAA, 509-477-4727; Implementation: April Westby, SRCAA, 509-477-4727; and Enforcement: Lori Rodriguez, SRCAA, 509-477-4727.

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. SRCAA is a local air pollution control agency. Per RCW 70.94.141, a cost-benefit analysis under RCW 34.05.328 does not apply to local air pollution control agencies.

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

Is exempt under RCW 70.94.141.

Explanation of exemptions: SRCAA is a local air pollution control agency. Per RCW 70.94.141, a small business economic impact statement does not apply to local air pollution control agencies.

March 17, 2020
Margee Chambers
Rule Writer
SIP Planner

SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA)
AMENDMENTS TO SRCAA REGULATION I, ARTICLES I, II, IV, V,
VI, X
AMENDATORY SECTION
SECTION 1.01 POLICY

(A) Agency and Jurisdiction. The ~~((Authority))~~ Agency, co(-)extensive with the boundaries of Spokane County, having been activated pursuant to the Washington Clean Air

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

(B) Public Policy.

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

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

(C) Applicability.

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

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

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

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

AMENDATORY SECTION

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

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

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

AMENDATORY SECTION

SECTION 1.03 SHORT TITLE

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

AMENDATORY SECTION

SECTION 1.04 GENERAL DEFINITIONS

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

(1) Actual Emissions means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with ~~((1-))~~ (a) through ~~((3-))~~ (c) ~~((of this subsection))~~ below.

~~((1-))~~ (a) In general, actual emissions as of a particular date shall equal the average rate, in tons per year at which the emissions unit actually emitted the pollutant during a two ~~((2))~~ (-) year period which precedes the particular date and which is representative of normal stationary source operation. The ~~((Authority))~~ Agency shall allow the use of a different time period upon a determination that it is more representative of normal stationary source operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

~~((2-))~~ (b) The ~~((Authority))~~ Agency may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the emissions unit.

~~((3-))~~ (c) For any emissions unit, which has not begun normal operations on the particular date, actual emissions shall equal the potential-to-emit of the emissions unit on that date.

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

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

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

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

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

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

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

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

~~(1-)~~ (a) The applicable standards as in 40 CFR Parts ~~60,~~ ~~(61,~~ 61, 62, or 63;

~~(2-)~~ (b) Any applicable State Implementation Plan (SIP) emissions limitation including those with a future compliance date; or

~~(3-)~~ (c) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

(9) *Alteration* means ~~(the act of altering, which means)~~ to change or make different. Alteration includes, but is not limited to, any enlargement, replacement, ~~(or)~~ change in the design, operation, capacity, or process arrangement ~~(of a process; any)~~, increase in the connected loading of process or control equipment, ~~(and any)~~ change in fuels, method of operation, or hours of operation, not previously approved by the Agency.

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

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

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

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

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

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

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

(17) *Best Available Control Technology for Toxics, or ((^u)) Toxic Best Available Control Technology ((^u)T(BACT))* ~~((^u)T(BACT))~~ means an emission limitation applied to each, or each mixture of, ~~((^u)Toxic ((^u)Air ((^u)Pollutants (TAPs) identified in ((^u)WAC)) Chapter 173-460((^u-150 & 160)) WAC~~ discharged, taking in account the potency, quantity, and toxicity of each TAP or mixture of TAPs discharged, in addition to the meaning given for Best Available Control Technology (BACT) ("BACT"), herein.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) For the purposes of this definition, "necessary preconstruction approvals" means those permits or orders of approval required under federal air quality control laws and

regulations, including state, local and federal regulations and orders contained in the State Implementation Plan (SIP).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~((Federal Land Manager means the secretary of the department with authority over federal lands in the United States. This includes, but is not limited to, the U.S. Department of the Interior—National Park Service, the U.S. Department of Agriculture—Forest Service, and/or the U.S. Department of the Interior—Bureau of Land Management.))~~

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

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

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

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

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

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

(51) Good Engineering Practice (GEP)~~((, as used in Chapter 173-400 WAC, refers to))~~ means a calculated stack

height based on the equation specified in WAC 173-400-200 (2)(a)(ii).

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

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

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

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

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

(57) Like-kind Replacement means replacement of existing components (emissions units, control equipment, etc.) with similar, equivalent, or comparable, new components (e.g. components that have the same throughput capacity, control efficiency, or utilization factor as the old component.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

((3-))(c) Restart of a ((⁽¹⁾))stationary source((⁽¹⁾)) after ~~((permanent shutdown, or))~~ closure;

((4-))(d) Relocation of a ((⁽¹⁾))stationary source((⁽¹⁾)) to a new location; ~~((except in the case of portable stationary sources operating under a valid "permit to operate" as provided in Article V, Section 5.08.A.2 through 5.08.A.5.))~~

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

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

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

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

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

(71) Nonroad Engine means:

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

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

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

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

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

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

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

~~((c-))3. The engine otherwise included in ((1-e. of this subsection)) Section 1.04 (A)(71)(a)3 remains or will remain at a location for more than twelve (12) consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and ((that)) is intended to perform the same or similar function as the engine replaced, will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two (2) years) and that operates at that single location approximately three (3) months (or more) each year. This paragraph does not apply to an engine after the engine is removed from the location.~~

(72) North American Industry Classification System (NAICS) means the standard used by federal statistical agencies in classifying business establishments for the purpose of

collecting, analyzing, and publishing statistical data related to the U.S. business economy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(88) PM_{2.5} means particulate matter with an aerodynamic diameter less than or equal to a nominal two and one-half (2.5) micrometers (microns or μ) as measured by a reference method based on 40 CFR Part 50 Appendix L and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

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

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

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

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

(93) Portable (~~(Stationary))~~) Source means a type of stationary source (~~(consisting of one or more emission units that is portable or transportable (excluding non-road engines))~~) that emits (~~(pollutants))~~ air contaminants only while at a

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

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

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

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

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

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

(99) Regulatory Order means an order issued ((to a stationary air contaminant source)) by Ecology((;)) or the ((Authority)) Agency((, which subjects that stationary source to)) that requires compliance with any applicable provisions

of Chapter 70.94 RCW, or the rules and regulations adopted thereunder.

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

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

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

~~((Significant:~~

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

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

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

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

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

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

~~((Pollutant and Emissions Rate~~

Carbon monoxide:	100 tons per year (tpy)
Nitrogen oxides:	40 tpy
Sulfur dioxide:	40 tpy
Particulate matter (PM):	25 tpy of PM emissions
	15 tpy of PM 10 emissions
Volatile organic compounds:	40 tpy
Fluorides:	3 tpy
Lead:	0.6 tpy
Sulfuric acid mist:	7 tpy
Hydrogen sulfide (H₂S):	10 tpy
Total reduced sulfur (including H₂S):	10 tpy

Reduced sulfur compounds (including H ₂ S):	10 tpy
Municipal waste combustor organics: (measured as total tetra through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	3.2 grams per year (0.112 oz. per year or 49 grains per year)
Municipal waste combustor metals: (measured as particulate matter)	14 megagrams per year (15 tpy)
Municipal waste combustor acid-gases: (measured as sulfur dioxide and hydrogen chloride)	36 megagrams per year (40 tpy)
Municipal solid waste landfill emissions: (measured as nonmethane organic compounds)	45 megagrams per year (50 tpy)
Ozone-depleting substances (in effect on the date listed in Article II, Section 2.13 of this Regulation:))	100 tpy

((d. Regardless of the definition in GGGG.3, significant means any emissions rate or any net emissions increase associated with a major stationary source or major modification which constructs a stationary air contaminant source within 10 kilometers of a Class I area, and has an ambient air quality impact on such area equal to, or greater than, 1 microgram per cubic meter (twenty-four-hour average), demonstrated through an Authority approved dispersion model.))

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~((1. Exceptions. The following compounds are not a VOC: Acetone; carbon monoxide; carbon dioxide; carbonic acid; metallic carbides or carbonates; ammonium carbonate; methane; ethane; methylene chloride (dichloromethane);~~

1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro-1-fluoroethane (HCFC-141b); 1-chloro-1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); perchlorobenzotrifluoride (PCBTf); cyclic, branched, or linear completely methylated siloxanes; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ea); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225eb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC-43-10mcc); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ea); 1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ca); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane (C4F9OCH3); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF3)2CFCF2OCH3); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C4F9OC2H5); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF3)2CFCF2OC2H5); methyl acetate and perfluorocarbon compounds that fall into these classes:

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

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

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

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

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

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

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

NEW SECTION

SECTION 1.05 ACRONYM INDEX

acfm Actual Cubic Feet per Minute

ACM Asbestos-Containing Material	PM ₁₀ Particulate Mater 10
ACWM Asbestos-Containing Waste Material	POTWs Private and Publicly Owned Treatment Works
AHERA Asbestos Hazard Emergency Response Act	ppmv Parts Per Million by Volume
AOP Air Operating Permit	ppmw Parts Per Million by Weight
ASTM American Society for Testing and Materials	psia Pounds per Square Inch Absolute
AWP Alternate Work Plan	psig Pounds per Square Inch Gauge
BACT Best Available Control Technology	PSD Prevention of Significant Deterioration
BART Best Available Retrofit Technology	PSP Portable Source Permit
bhp Brake Horse Power	PTE Potential to Emit
Btu British Thermal Unit	RACT Reasonable Available Control Technology
C Celsius	RCW Revised Code of Washington
CFR Code of Federal Regulations	SEPA State Environmental Policy Act
CO Carbon Monoxide	SIC Standard Industrial Classification
DNR Department of Natural Resources	SIP State Implementation Plan
DNS Determination of Nonsignificance	SCAPCA Spokane County Air Pollution Control
DS Determination of Significance	Authority
EFSEC Energy Facility Site Evaluation Council	SM Synthetic Minor
EIS Environmental Impact Statement	SNAP Spokane Neighborhood Action Partners
e-NOI Electronic Notice of Intent	SO ₂ Sulfur Dioxide
EPA Environmental Protection Agency, same as USE	SQER Small Quantity Emission Rate
PA	SRCAA Spokane Regional Clean Air Agency
ERC Emissions Reduction Credit	TAC Toxic Air Contaminant
F Fahrenheit	TAP Toxic Air Pollutant
FCAA Federal Clean Air Act	tBACT Toxic Best Available Control Technology
G Gram	TRS Total Reduced Sulfur
gal Gallon	TSI Thermal System Insulations
GEP Good Engineering Practices	TSP Total Suspended Particulate
GOA General Order of Approval	USC United States Code
HAP Hazardous Air Pollutant	USEPA United State Environmental Protection Agency,
HEPA High Efficiency Particulate Air	same as EPA
hr Hour	VOC Volatile Organic Compound
HVLP High Volume, Low Pressure	WAC Washington Administrative Code
kg Kilogram	WCAA Washington Clean Air Act
LAER Lowest Achievable Emission Rate	WISHA Washington Industrial Safety and Health Act
L Liter	yr Year
lb Pound	
LIEAP Low Income Energy Assistance Program	Reviser's note: The spelling error in the above section occurred in the
LPG Liquid Petroleum Gas	copy filed by the agency and appears in the Register pursuant to the require-
LVLP Low Volume, Low Pressure	ments of RCW 34.08.040.
mm Millimeter	
MACT Maximum Achievable Control Technology	Reviser's note: The typographical error in the above section occurred
MDNS Mitigated Determination of Nonsignificance	in the copy filed by the agency and appears in the Register pursuant to the
NAAQS National Ambient Air Quality Standards	requirements of RCW 34.08.040.
NAICS North American Industry Classification System	
NOC Notice of Construction	AMENDATORY SECTION
NESHAP National Emission Standards for Hazardous	SECTION 2.01 POWERS AND DUTIES OF THE BOARD
Air Pollutants	
NOI Notice of Intent	((A-)) (A) <u>Board Procedures and Actions.</u> Pursuant to,
NOV Notice of Violation	and consistent with, the provisions of the Washington Clean
NO ₂ Nitrogen Dioxide	Air Act (<u>WCAA</u>) Chapter 70.94 RCW, the Board shall estab-
NO _x Nitrogen Oxide	lish such procedures and take such action as may be required
NSPS New Source Performance Standards	to implement <u>SRCAA Regulation I, Article I, Section 1.01</u>
NSR New Source Review	((of this Regulation)) . The Board may take such action as
O ₃ Ozone	may be necessary to prevent air pollution, including control
Pb Lead	and measurement of the emission of any air contaminant
PCHB Pollution Control Hearings Board	from a source. The Board shall appoint a Control Officer,
PLM Polarized Light Microscopy	competent in the control of air pollution who shall, with the
PM Particulate Matter	Board's advice and approval, enforce the provisions of all
PM _{2.5} Particulate Matter 2.5	ordinances, orders, resolutions, rules, and regulations of this
	((Authority)) <u>Agency</u> , pertinent to the control and prevention
	of air pollution in Spokane County.
	((B-)) (B) <u>Hearings.</u> The Board shall have the power to
	hold hearings relating to any aspect of or matter in the admin-

istration of ~~((this))~~ Regulation I and in connection therewith; issue subpoenas to compel the attendance of witnesses and production of evidence, administer oaths and take the testimony of any person under oath.

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

AMENDATORY SECTION

SECTION 2.02 CONTROL OFFICER'S DUTIES AND POWERS

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

~~((B-))~~(B) Employees. The Control Officer, with the approval of the Board, shall have the authority to appoint and remove such employees as are necessary to the performance of the duties assigned, ~~((to him))~~ and to incur necessary expenses within the limitations of the budget.

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

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

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

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

sample at the same time and place, and the Control Officer or the authorized representative of the ~~((Authority))~~ Agency shall give a receipt to the owner or ~~((lessee))~~ operator for the sample obtained.

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

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

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

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

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

AMENDATORY SECTION

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

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

AMENDATORY SECTION

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

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

AMENDATORY SECTION

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

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

AMENDATORY SECTION

SECTION 2.06 APPEAL OF BOARD ORDERS

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

~~((B-))~~(B) Stay. The Control Officer may stay the effectiveness of an order during the pendency of such an appeal. At any time during the pendency of such an appeal of such an order to the PCHB, the appellant may apply to the PCHB

~~((pursuant to))~~ as provided in Chapter 43.21B RCW and Chapter 371-08 WAC for a stay of the order or for the removal thereof.

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

AMENDATORY SECTION

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

AMENDATORY SECTION

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

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

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

~~((C))~~(C) Available for Review. Any order or registration certificate required to be obtained by Chapter 70.94 RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto, shall be available for review on the premises designated on the order or certificate.

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

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

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

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

AMENDATORY SECTION

SECTION 2.09 SOURCE TESTS

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

~~((B))~~(B) Applicability. This Section applies to any source test performed on sources established or operated in Spokane County that will be submitted to the Agency for reg-

ulatory purposes. Tests performed on gasoline dispensing facilities are exempt from the requirements of this ~~((s))~~ Section, unless otherwise required by the Agency.

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

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

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

~~((1. Combustion test means a test performed on fuel burning equipment, using a combustion analyzer, for purposes of analyzing the combustion products produced by the equipment.~~

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

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

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

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

~~((6.))~~(2) Source ((#))Test means any testing performed at a source that measures;

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

~~((#))~~(b) ((#))The capture efficiency of a capture system; ~~((and))~~ or

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

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

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

- ~~((1.))~~(1) Facility name, mailing address, and source location;
- ~~((2.))~~(2) Facility contact name(s), email address(es), and telephone number(s);
- ~~((3.))~~(3) Source testing company name, company contact name(s), email address(es), and telephone number;
- ~~((4.))~~(4) Source testing schedule and date(s);
- ~~((5.))~~(5) Source description including a description of the pollution control device and sample locations;
- ~~((6.))~~(6) Pollutant(s) to be measured;
- ~~((7.))~~(7) Test methods;
- ~~((8.))~~(8) Number of test runs and length of each individual test run;
- ~~((9.))~~(9) A description of what constitutes representative process and control conditions for the source to be tested (i.e., production rate, etc.). This ~~((shall))~~ will include the expected process and control conditions (including production rate) during testing;
- ~~((10.))~~(10) Applicable process and ~~((or))~~ production information to be collected during the source test;
- ~~((11.))~~(11) Control device operating parameters to be monitored during the source test;
- ~~((12.))~~(12) Fuel and ~~((or))~~ raw material samples (if applicable), type of analysis, how the samples will be collected, and who will collect the samples;
- ~~((13.))~~(13) Timeline for submittal of the final test report to ~~((SRCAA))~~ the Agency; and
- ~~((14.))~~(14) Any other testing information required by the Agency.

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

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

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

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

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

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

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

~~((1.))~~(1) A source test may be stopped only because of safety reasons, ~~((or))~~ testing ~~((and))~~ or process equipment malfunction that occurred during the source test and identified at the time the test is stopped. The testing ~~((shall))~~ must be resumed as soon as practicable. A source test may not be stopped solely due to the expected or known failure of one or more test runs to meet applicable standards.

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

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

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

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

made, a written notification must be submitted by either hard copy, facsimile, or e((-))mail.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~b. Exhaust gas temperature;~~

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

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

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

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

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

~~c. Parameters listed under Section 2.09.K.5 above; and~~

~~d. Copies of actual data sheets.)~~

AMENDATORY SECTION

SECTION 2.10 SEVERABILITY

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

AMENDATORY SECTION

SECTION 2.11 ~~((SEE RCW 70.94.430) CRIMINAL))~~ PENALTIES, ~~((§ 431-6))~~ CIVIL PENALTIES, AND ~~((§ & 435-6))~~ ADDITIONAL MEANS FOR ENFORCEMENT ~~((§))~~

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

AMENDATORY SECTION

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

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

AMENDATORY SECTION

SECTION 2.13 FEDERAL AND STATE REGULATION REFERENCE DATE

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

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

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

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

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

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

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

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

AMENDATORY SECTION

SECTION 2.14 WASHINGTON ADMINISTRATIVE CODES (WACS)

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

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

020 - Applicability.

030 - Definitions.

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

040 - General standards for maximum emissions.

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

050 - Emission standards for combustion and incineration units.

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

060 - Emission standards for general process units.

070 - Emission standards for certain source categories.

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

081 - Emission limits during startup and shutdown.

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

091 - Voluntary limits on emissions.

105 - Records, monitoring, and reporting.

(a) Exceptions. The following subsections are not adopted by reference: 105(3, 4, 6, and 040(8)

107 - Excess emissions.

108 - Excess emission reporting.

109 - Unavoidable excess emissions.

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

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

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

116 - Increment protection.

117 - Special protection requirements for federal Class I areas.

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

120 - Bubble rules.

131 - Issuance of emission reduction credits.

136 - Use of emission reduction credits (ERC).

151 - Retrofit requirements for visibility protection.

161 - Compliance schedules.

175 - Public information.

180 - Variance.

190 - Requirements for nonattainment areas.

200 - Creditable stack height and dispersion techniques.

205 - Adjustment for atmospheric conditions.

210 - Emission requirements of prior jurisdictions.

220 - Requirements for board members.

240 - Criminal penalties.

260 - Conflict of interest.

560 - General order of approval.

700 - Review of major stationary sources of air pollution.

710 - Definitions.

720 - Prevention of significant deterioration (PSD).

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

730 - Prevention of significant deterioration application processing procedures.

740 - PSD permitting public involvement requirements.

750 - Revisions to PSD permits.

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

810 - Major stationary source and major modification definitions.

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

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

830 - Permitting requirements.

840 - Emission offset requirements.

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

860 - Public involvement procedures.

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

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

~~1) Source Registration~~

(a) WAC 173-400-100—Source classifications
 (b) WAC 173-400-102—Scope of registration and reporting requirements

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

2) Stationary, portable and temporary source permitting

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

~~(i) SRCAA Regulation I, Article V, Sections 5.02.A.9, 5.02.1, and 5.08 replace the permitting requirements in WAC 173-400-035 for all portable and temporary sources in Spokane County.~~

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

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

3) Fees (SRCAA has its own fee structure).

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

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

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

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

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

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

4) Prevention of significant deterioration (PSD) program

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AMENDATORY SECTION

SECTION 2.15 INTIMIDATION

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

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

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

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

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

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

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

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

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

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

NEW SECTION

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

(A) The Agency Adopts by Reference:

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

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

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

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

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

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

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

NEW SECTION

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

(A) The Agency Adopts by Reference:

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

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

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

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

NEW SECTION

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

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

(B) Nonmajor Sources of Hazardous Air Pollutants.

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

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

(m) Subpart EEEEEEE, Gold mine ore processing and production.

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

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

(a) Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities;

(b) Subpart N, National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks;

(c) Subpart T, National Emission Standards for Halogenated Solvent Cleaning;

(d) Subpart RRR, National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production; and

(e) Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers.

(C) Source Testing.

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

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

NEW SECTION

SECTION 2.19 40 CFR PART 65 - CONSOLIDATED FEDERAL AIR RULE

(A) The Agency Adopts by Reference:

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

AMENDATORY SECTION

SECTION 4.01 REGISTRATION REQUIRED

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

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

(C) Registration Program Components.

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

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

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

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

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

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

AMENDATORY SECTION

SECTION 4.02 GENERAL REQUIREMENTS FOR REGISTRATION

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

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

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

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

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

~~((4-))~~(1) ~~((The new))~~ An owner or operator~~((;))~~ that changes the business name of a registered stationary source, assumes ownership of a registered stationary source, and/or assumes operational control of a registered stationary source, ~~((shall))~~ must report ~~((any))~~ the changes ~~((of ownership or change of operator))~~ to the ~~((Authority))~~ Agency, on Agency prepared and furnished forms, within ninety (90) days of ~~((completing transfer of ownership and/or assuming operational control. The new owner or operator shall report))~~ the change, ~~((on "Change of Ownership Forms" provided by the Authority. The report shall contain the following information:~~

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

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

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

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

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

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

(F. New Sources.

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

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

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

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

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

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

AMENDATORY SECTION

SECTION 4.03 REGISTRATION EXEMPTIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AMENDATORY SECTION

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

~~((NOTE-))~~

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

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

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

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

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

(d) Any stationary source where the owner or operator has elected to avoid one or more requirements of the operat-

ing permit program established in Chapter 173-401 WAC, by limiting its PTE (synthetic minor) through an order issued by the Agency.

(2) Any stationary sources or source categories:

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

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

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

(3) Stationary sources with the following operations:

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

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

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

(d) Agricultural drying and dehydrating operations.

(e) Alumina processing operations.

(f) Ammonium sulfate manufacturing plants.

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

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

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

(j) Chemical manufacturing operations.

(k) Coffee roasting operations.

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

(m) Concrete production operations and ready mix plants.

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

(o) Flexible vinyl operations and urethane coating operations.

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

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

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

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

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

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

(t) Insulation manufacturing operations.

(u) Marijuana producers.

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

(w) Metalcasting facilities and foundries, ferrous.

(x) Metal casting facilities and foundries, nonferrous.

(y) Metal plating and anodizing operations.

(z) Metallurgical processing operations.

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

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

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

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

(ee) Mineralogical processing operations.

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

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

(hh) Perchloroethylene dry cleaning operations.

(ii) Pharmaceuticals production operations.

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

(kk) Portland Cement production facilities.

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

(mm) Rendering operations.

(nn) Semiconductor manufacturing operations.

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

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

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

(rr) Surface coating operations:

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

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

(ss) Synthetic fiber production operations.

(tt) Synthetic organic chemical manufacturing operations.

(uu) Tire recapping operations.

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

(4) Stationary sources with the following equipment:

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

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

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

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

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

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

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

(c) Internal combustion engines

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

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

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

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

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

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

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

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

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

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

1. Bakeries;

2. Bed lining or undercoating production or application operations;

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

4. Distilleries;

5. Dry cleaning non-perchloroethylene operations;

6. Evaporators;

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

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

9. Marijuana processors;

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

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

12. Plasma or laser cutters;

13. Soil and groundwater remediation operations;

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

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

16. Welding, brazing, or soldering operations; or

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

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

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

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

4. Agricultural drying and dehydrating operations.

5. Alumina processing operations.

6. Ammonium sulfate manufacturing plants.

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

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

b. Any stationary source that qualifies as a new stationary source within the meaning of 40 CFR 63.2—National Emission Standards for Hazardous Air Pollutants for Source Categories (commonly referred to as MACT Standards);

effective the date listed in Article II, Section 2.13 of this Regulation;

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

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

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

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

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

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

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

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

1) Bakeries;

2) Bed lining or undercoating production or application operations;

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

4) Evaporators;

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

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

7) Soil and groundwater remediation operations;

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

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

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

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

12) Marijuana processors.

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

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

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

13. Any stationary source where the owner or operator has elected to avoid one or more requirements of the operat-

ing permit program established in Chapter 173-401 WAC, by limiting its potential to emit (synthetic minor) through an order issued by the Authority.

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

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

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

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

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

19. Chemical manufacturing operations.

20. Coffee roasting operations.

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

22. Concrete production operations and ready mix plants.

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

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

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

26. Flexible vinyl and urethane coating operations.

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

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

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

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

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

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

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

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

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

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

32. Insulation manufacturing operations.

33. Metal casting facilities and foundries, ferrous.
34. Metal casting facilities and foundries, nonferrous.
35. Metal plating and anodizing operations.
36. Metallic and nonmetallic mineral processing, including, but not limited to, rock crushing, sand and gravel mixing operations.
37. Metallurgical processing operations.
38. Mills; lumber, plywood, shake, shingle, woodchip, veneer operations, dry kilns, pulpwood insulating board, grass/stubble pressboard, pelletizing, or any combination thereof.
39. Mills; grain, seed, feed and flour production and related operations
40. Mills; wood products manufacturing operations (including, but not limited to, cabinet works, casket works, furniture and wood by products).
41. Mineralogical processing operations.
42. Natural gas transmission and distribution (SIC 4923/NAICS 486210 and 221210, respectively).
43. Ovens/furnaces, kilns and curing, burnout, (including, but not limited to, ovens/furnaces that heat clean automotive parts, paint hooks, electric motors, etc.) except those that would otherwise be exempt under item 27.
44. Paper manufacturing operations, except Kraft and sulfite pulp mills.
45. Petroleum refineries.
46. Pharmaceuticals production operations.
47. Plastics and fiberglass fabrication, including gelecoat, polyester resin, or vinyl ester coating operations using more than 55 gallons per year of all materials containing volatile organic compounds or toxic air pollutants.
48. Refuse systems (SIC 4953/NAICS 562213, 562212, 562211, & 562219, respectively), including municipal waste combustors; landfills with gas collection systems and/or flares; hazardous waste treatment, storage, and disposal facilities; and wastewater treatment plants other than private and publicly owned treatment works (POTWs).
49. Rendering operations.
50. Sewerage systems, private and publicly owned treatment works (POTWs) with a rated capacity of more than 1 million gallons per day (SIC 4952/NAICS 221320).
51. Semiconductor manufacturing operations.
52. Internal combustion engines used for standby, back-up operations only, and rated at or above five hundred brake horsepower.
53. Stationary internal combustion engines, other than engines used for standby or back-up operations, that are rated at one hundred brake horsepower or more, that are integral to powering a stationary source or stationary source category, including but not limited to, rock crushing, stump and wood waste grinding, and hay cubing operations.
54. Stump and wood waste grinding established at a dedicated collection and processing site.
55. Storage tanks for organic liquids, within commercial or industrial facilities, with capacities greater than 20,000 gallons.
56. Surface coating, adhesive, and ink manufacturing operations.

57. Surface coating operations, including; automotive, metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper, and other substrates.
58. Synthetic fiber production operations.
59. Synthetic organic chemical manufacturing operations.
60. Tire recapping operations.
61. Wholesale meat/fish/poultry slaughter and packing plants.
62. Startup of a new air contaminant source at a site where:
- a. a previous air contaminant source was located; and
 - b. the nature of the business or pollutants of the new air contaminant source is different from the previous air contaminant source.
63. Marijuana producers.
64. Marijuana processors with direct processing of the marijuana plant and plant material (dry, cure, extract, compound, convert, package, and label usable marijuana and marijuana concentrates:))

NEW SECTION

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

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

(1) The owner or operator notifies the Agency using the Agency prepared and furnished notification form, within ninety (90) days after the owner or operator permanently stops or terminates processes that produce air contaminant emissions at a stationary source or emissions unit(s). Upon submittal of an Agency prepared and furnished notification form to the Agency, or receipt of a written notification from the Agency of closure, the registration status of the stationary source or emissions unit(s) becomes null and void.

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

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

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

- (1) The duration and cause of the cessation of operations;
- (2) The maintenance or testing status of the stationary source or emissions unit(s);
- (3) Whether a presence was maintained at the site during the cessation of operations; and
- (4) The payment status of registration fees during the cessation of operations.

(C) Process and Control Equipment Rendered Inoperable. In the event of the closure of a stationary source or emissions unit(s), the process and pollution control equipment may remain in place and on site, but must be rendered inca-

pable of generating emissions to the atmosphere (e.g. disconnection of power to equipment, mechanical positioning that inhibits processing; placing of padlocks on equipment to prevent operation.)

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

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

AMENDATORY ARTICLE TITLE

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

AMENDATORY SECTION

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

AMENDATORY SECTION

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

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

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

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

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

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

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

~~((3-)) Regardless of any other subsection of this section, a notice of construction application must be filed and an order of approval issued by the Authority prior to establishment of~~

~~any of the stationary sources listed in Items 7 and 8 of Article IV, Exhibit "R"; or))~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~((G. A separate *Notice of Construction and Application for Approval* shall be filed for each new or modified stationary source, source category, or emissions control system, unless identical units are to be constructed, installed, or established and operated in an identical manner at the same facility, except that the owner or operator has the option to file one application for an entire facility, with a detailed inventory of stationary sources or source categories and their emissions related to that facility.))~~

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

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

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

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

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

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

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

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

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

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

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

~~((N. Transfer of Ownership~~

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

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

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

~~((O. Except where Ecology is the permitting agency pursuant to WAC 173-400-141 (PSD) or Ecology's Industrial Sector has retained specific air pollution stationary sources or~~

source categories exclusively under their jurisdiction, pursuant to RCW 70.94.422, the Authority permits, implements and enforces WAC 173-400-112 (Requirements for new sources in nonattainment areas) and WAC 173-400-113 (Requirements for new sources in attainment areas), in Spokane County.)

(I)(P-) Stationary Sources Exempt from Article V.

(1) The following ~~(new)~~ stationary sources are exempt from the requirement to file a NOC application (~~Notice of Construction and Application for Approval~~) and obtain an Order of Approval, provided that the source has been registered with the ~~(Authority as required) per Regulation I,~~ per Article IV, ~~(3)~~ prior to placing the source in operation:

(a)(1-) Batch coffee roasters with a maximum rated capacity of five (5) kg (~~(40 lbs-)~~) per batch or less, unless air pollution controls are required because of documented nuisance odors or emissions.

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

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

(2) Exemption documentation. The owner or operator of any stationary source exempted under Article V must maintain documentation in order to verify the stationary source remains entitled to the exemption status and must present said documentation to an authorized Agency representative upon request. If an owner or operator of any source that is exempt from new source review under Article V as a result of the exemption in Section 5.02 (I)(1) exceeds the emission thresholds in those exemptions, the owner or operator must immediately notify the Agency of the exceedance and submit and NOC application and receive an Order of Approval from the Agency.

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

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

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

AMENDATORY SECTION

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

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

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

AMENDATORY SECTION

SECTION 5.04 INFORMATION REQUIRED

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

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

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

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

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

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

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

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

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

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

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

AMENDATORY SECTION

SECTION 5.05 PUBLIC INVOLVEMENT

(A) Public Notice and Opportunity for Public Comment.

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

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

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

~~(1)(-N) A notice ((shall)) must be published on the ((Authority's) Agency's ((Internet)) web site announcing the receipt of NOC ((Notice of Construction)) applications and PSP applications. ((including the first time that a portable stationary source (or temporary stationary source, if applicable) operates in Spokane County) and other proposed actions.) Notice ((shall)) will be published for a minimum of fifteen (15) consecutive days. Duration does not require uninterrupted web site access. ((Publication of a notice on the Authority's website at the time of application receipt is not required for any application or proposed action that automatically requires a public comment period pursuant to Subsection B. of this Section. In the event that publication on the Authority's Internet website does not occur for the prescribed time period, notice will be published for a minimum of one (1) day in a newspaper of general circulation in the area of the proposed action. Each notice shall, at a minimum, include the following information:)) Each notice will include the following information:~~

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

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

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

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

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

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

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

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

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

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

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

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

(2) An order for a new stationary source or modification of an approved stationary source that increases the annual allowable emissions of the approved source to ten (10) tons or more of any air contaminant, criteria pollutant, or toxic air pollutant;

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

~~(4)((b. Any u)) Use of a modified or substituted air quality model, other than a guideline model in Appendix W of 40 CFR Part 51, ((as amended;)) as part of review under Article V, Sections 5.02 and 5.08 ((and 5.02 of this Article)), WAC 173-400-112, WAC 173-400-113, or WAC 173-400-117((; or WAC 173-400-141);~~

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

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

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

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

(6)(-) An~~(y))~~ order to establish a compliance schedule or a variance. A variance shall be in accordance with Reg-

~~ulation I, ((handled as provided in)) Article III ((of this Regulation));~~

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

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

~~(9)((j-)) An((y)) action to ((order used to establish)) discount the value of an ERC issued to a source per WAC 173-400-136; ((a creditable emission reduction, pursuant to WAC 173-400-131;))~~

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Administrative record. The information submitted by the ((applicant)) owner or operator, and any applicable pre-

liminary determinations, including analyses of the effect(s) on air quality, ((shall)) must be available for public inspection in at least one (1) location near the proposed project or on the Agency web site for the duration of the public comment period. Duration does not require uninterrupted web site access.

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

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

2. Draft permit, order, or action; and

3. Information on how to access the administrative record.

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

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

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

(b) The Agency may supplement Agency web site notification by advertising ((Notice shall be published)) in a newspaper of general circulation in the area of the proposed action or by other methods appropriate to notify the local community. ((project for a minimum of one (1) day. For applications or actions subject to a public comment period pursuant to Subsections B.1.n. or B.1.o. of this Section, publication on the Authority's Internet homepage for a minimum of thirty (30) days may be substituted for newspaper publication:))

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

(a) Date the public notice is posted;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8)(-) Public hearings.

(a) The owner or operator, any interested governmental entity, group, or ((Any)) person may request a public hearing within the thirty (30)(-)day public comment period. All hearing requests must be submitted to the Agency in writing via letter, fax, or electronic means. A request must ((Each request shall)) indicate the interest of the ((party)) entity filing it and why a hearing is warranted.

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

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

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

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

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

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

(E)(D-) Public ((i))Involvement for ((i))Integrated ((f)) Review with an Air ((o))Operating ((p))Permit. Any NOC ((Notice of Construction)) application designated for inte-

grated review with an application to issue or modify an operating permit ((shall)) must be processed in accordance with the operating permit program procedures and deadlines (Chapter 173-401 WAC), as adopted by reference.

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

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

AMENDATORY SECTION

SECTION 5.06 APPLICATION COMPLETENESS DETERMINATION

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

(1) Within thirty (30) days of receipt of a NOC or PSP ((Notice of Construction and Application for Approval or PSD permit)) application ((PSD permits are Ecology's jurisdiction)), the ((Authority)) Agency (shall) must notify the owner or operator ((applicant)) in writing that the application is complete or ((notify the applicant in writing)) of any additional information necessary((, based on review of informa-tion already supplied,)) to complete the application. Designating an application complete for purposes of NOC or PSP application processing does not preclude the Agency from requesting or accepting any additional information.

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

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

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

(3) For a project subject to the major new source review requirements in WAC 173-400-800 through 860, the completeness determination includes a determination that the

application includes all information required for review under those sections.

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

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

AMENDATORY SECTION

SECTION 5.07 ~~((ISSUANCE OF APPROVAL OR ORDER))~~ PRO-CESSING NOC APPLICATIONS FOR STATIONARY SOURCES

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

(1) Criteria for approval of a NOC application. An Order of Approval cannot be issued until the following criteria are met as applicable:

- (a) The requirements of WAC 173-400-112;
- (b) The requirements of WAC 173-400-113;
- (c) The requirements of WAC 173-400-117;
- (d) The requirements of Article V, Section 5.05;
- (e) The requirements of WAC 173-400-200 and 205;
- (f) The requirements of WAC 173-400-800 through 860;
- (g) The requirements of Chapter 173-460 WAC; and
- (h) All fees required under SRCAA Regulation I, Article X, Sections 10.07 and 10.08 have been paid.

(2)(+)) Within sixty (60) days of receipt of a complete NOC application ~~((Notice of Construction and Application for Approval)),~~ the ~~((Authority))~~ Agency ~~((shall))~~ must either issue a final determination on the application or, when required, ~~((for those proposals subject to public notice requirements,))~~ initiate public notice and comment procedures under Article V, Section 5.05. ~~((If state or federal regulations require public notice, the public notice shall occur in a manner that complies with both Section 5.05 and those sections of the state or federal regulations that are applicable.))~~ The ~~((Authority))~~ Agency ~~((shall))~~ must issue a final determination as promptly as possible after the close of the comment period.

(3)(2-)) The final determination may include:

(a)(-) An ~~((o))~~ Order ~~((d))~~ Denial, if ~~((it is found that))~~ the proposal is not in accordance with Chapter 70.94 RCW, the rules and regulations adopted thereunder, and the ~~((Authority's))~~ Agency's regulation(s); or

(b)(-) An ~~((o))~~ Order ~~((a))~~ Approval which may provide reasonable conditions necessary to assure ~~((maintenance of))~~ compliance with Chapter 70.94 RCW, the rules and regulations adopted thereunder, and the ~~((Authority's))~~ Agency's regulation(s).

(4)(3-)) ~~((Every))~~ The final determination on a NOC application must ~~((Notice of Construction and Application for Approval shall))~~ be reviewed ~~((, prior to issuance,))~~ and signed by a professional engineer prior to issuance ~~((or staff under the direct supervision of a professional engineer in the employ of the Authority)).~~

(5) The Agency must promptly mail a copy of each order, approving, denying, revoking, revising, or suspending an Order of Approval or Permit to Operate to the applicant

and to any other party who submitted timely comments on the action. The approval, denial, revocation, revision, or suspension order must include a notice advising the parties of their rights of appeal to the Pollution Control Hearings Board.

(6)(4-)) If the new source is a major stationary source, or the change is a major modification subject to the requirements of WAC 173-400-800 through 860, ~~((as defined in WAC 173-400-112, where the new source is located inside of a non-attainment area,))~~ the ~~((Authority))~~ Agency ~~((shall))~~ must:

(a)(-) Submit any ~~((Lowest Achievable Emission Rate))~~ LAER ~~((+))~~ control ~~((technology))~~ equipment determination ~~((, for any non-attainment criteria pollutant of concern and/or its precursor, that is))~~ included in a final ~~((o))~~ Order ~~((a))~~ Approval to the RACT/BACT/LAER Clearinghouse maintained by the EPA; and

(b)(-) Send a copy of the final ~~((o))~~ Order ~~((a))~~ Approval, with the LAER control ~~((technology))~~ equipment determination, to EPA.

(7)(5-)) The owner or operator of a stationary source ~~((shall))~~ must not ~~(("commence" construction or-))~~ begin actual construction ~~((, as those terms are defined in Article I, Section 1.04 of this Regulation,))~~ until the ~~((Authority))~~ Agency approves the NOC application and issues an Order of ~~((Notice of Construction and Application for))~~ Approval.

~~((6. The absence of an ordinance, resolution, rule, or regulation, or the failure to issue an order under this section shall not relieve any person from the obligation to comply with applicable emission control requirements or with any other provision of law.))~~

(B)(B-)) Replacement or ~~((s))~~ Substantial ~~((a))~~ Alteration of ~~((emission e))~~ Control ~~((e))~~ Equipment, ~~((1. Any person))~~ An owner or operator proposing to replace or substantially alter the ~~((emission))~~ control ~~((technology))~~ equipment installed on an existing ~~((stationary source))~~ or emission unit ~~((shall))~~ must file an ~~((Notice of Construction))~~ NOC application with the ~~((Authority))~~ Agency. A project to replace or substantially alter control technology at an existing stationary source that results in an increase in emissions of any air contaminant is subject to new source review as provided in Section 5.07(A). For any other project to replace or substantially alter control equipment, the requirements of 5.07 (B)(1) through (5) apply. Replacement or substantial alteration of control equipment does not include routine maintenance, repair, or similar parts replacement. (If the replacement or substantial alteration meets the definition of "new source" or "modification" then the "new source" emissions standards of Article V, Section 5.02 through 5.07.A., WACs 173-400-112 or 400-113 shall apply. If the replacement or substantial alteration does not meet the definition of "new source" or "modification", then the requirements in B.2. through B.9. of this Section shall apply.))

~~((2. For projects not otherwise reviewable under Article V, Sections 5.02 through 5.07.B.1; Subsections B.2. through B.9. of this Section shall apply.))~~

~~((3. Within thirty (30) days of receipt of a notice of construction application under this section the Authority shall either notify the applicant in writing that the application is complete or that additional information is necessary to complete the application.))~~

~~(1)(4.)~~ Within thirty (30) days of receipt of a complete ~~(Notice of Construction)~~ NOC application, ~~((under this section the Authority shall))~~ the Agency must ~~((either))~~ issue a final determination. The final determination may include:

~~(a)(a) An (e)Order of (a)Approval(;);~~

~~(b)(a) An (e)Order of (d)Denial(;);~~

~~(c)(a) A proposed RACT determination for the (proposed) project(, pursuant to) per WAC 173-400-114.~~

~~(2)(5.)~~ The final determination may:

~~(a)(-) Require that the owner (ef) or operator employ RACT for the affected emissions unit;(, and)~~

~~(b)(-) Prescribe reasonable operation and maintenance conditions for the control equipment;(;) and~~

~~(c)(-) Prescribe other requirements as authorized by Chapter 70.94 RCW.~~

~~(3)(6. Prior to issuance, the Notice of Construction)~~ The final determination on a NOC application must (shall) be reviewed and signed by a professional engineer prior to issuance. ((or staff under the direct supervision of a professional engineer in the employ of the Authority.))

(4) The Agency must promptly mail a copy of each order, approving, denying, revoking, revising, or suspending an Order of Approval or Permission to Operate to the owner or operator, and to any other party who submitted timely comments on the action. The order must include a notice advising the parties of their rights of appeal to the PCHB.

~~(5)(7. Replacement or substantial alteration)~~ Construction shall not commence until the ((Authority)) Agency approves the NOC application and issues an Order of Approval. However, any NOC application ((Notice of Construction and Application for Approval,)) filed under Section 5.07(B) ((5.08.B.2 through Section 5.08.B.9)), shall be deemed to be approved without conditions, if the ((Authority)) Agency takes no action within thirty (30) days of receipt of a complete application.

~~((8. Replacement or substantial alteration of control technology does not include routine maintenance, repair or similar parts replacement.))~~

~~((9. Replacement or substantial alteration of control technology shall not cause a violation of applicable ambient air quality standards and, if in a nonattainment area, shall not interfere with scheduled attainment of national ambient quality standards.))~~

AMENDATORY SECTION

SECTION 5.08 ((TEMPORARY AND)) PORTABLE ((STATIONARY)) SOURCES

(A)((A.)) PSP Required for New or Modified Portable Sources.

~~(1)(- Except as otherwise provided in 5.08.G of this Article, for)~~ A PSP application must be filed by the owner or operator and an Permission to Operate issued by the Agency prior to the establishment of any portable -(stationary) sources, which locate temporarily at ((specific sites)) locations in Spokane County. Exemptions are provided in Section 5.08(D).((, the owner or operator, or their agent shall obtain a Notice of Construction and Application for Approval the first time that the portable stationary source operates in Spokane County. This Notice of Construction shall be subject to the same requirements of a new source.))

~~(2)(-) ((Thereafter, e))~~ Each time that ((the)) a portable ((stationary)) source will relocate((s and)) to operate((s)) at a new ((site)) location in Spokane County, the owner or operator ((of said portable stationary source)) must submit a PSP application ((apply for)) and obtain an approved ((Notice of Intent to Install and Operate a Temporary Stationary Source)) Permission to Operate issued by the Agency.

~~(3)(- The owner or operator, or their agent shall file the Notice of Construction or Notice of Intent to Install and Operate a Temporary Stationary Source (NOI))~~ The PSP application must be filed at least fifteen (15) ((ten (10))) calendar days prior to ((starting the operation)) operating at a new location.

~~(4)(- The owner or operator shall apply for the NOC or NOI on Authority prepared and furnished application and information request forms and obtain an order of approval or permission to operate, respectively from the Authority prior to operating at the site. Sufficient information, equivalent to the information required in Section 5.04.A of this Article, shall be supplied by the owner or operator, or their agent to enable the Authority to determine that the operation will be in accordance with Chapter 70.94 RCW, the rules and regulations adopted thereunder, and the Authority's regulation(s.))~~ Information required in Article V, Section 5.04, must be supplied by the owner or operator to enable the Agency to determine that the operation is in accordance with Chapter 70.94 RCW, the rules and regulations adopted thereunder, and the Agency's regulation(s).

(5) A PSP application cannot be approved and a Permission to Operate cannot be issued until the criteria given in Section 5.07(A), as applicable, has been met.

~~(6)(5. Except for nonroad engines, based on the source type and emission quantity, temporary stationary sources, not covered under Section 5.08.A.1, may be subject to new source review at the discretion of the Authority.)~~ Nonroad engines are reviewed under the following:

(a). Except as provided in Article V, Section 5.08(D), nonroad engines are required to submit PSP application and obtain an approved Permission to Operate if:

1. The nonroad engine is rated at 500 or more bhp; and

2. The nonroad engine operates at the site for thirty (30) or more calendar days in any twelve (12) month period. Nonroad engines anticipated to operate more than thirty (30) days in any twelve (12) month period, but less than one (1) year are subject to the requirements of Article V, Section 5.08. When the nonroad engine operates at the site for more than three hundred sixty-four (364) consecutive days, a NOC application must be filed by the owner or operator and approved by the Agency.

(b) Nonroad engines, required to obtain approval of a PSP application per Section 5.08 are reviewed under the following criteria:

1. Emission impacts must comply with NAAQS;

2. Must meet applicable federal standards for nonroad diesel engines (40 CFR Part 89, if applicable);

3. Must use ultra low sulfur fuel (equal to or less than 0.0015% sulfur by weight);

4. Must be properly operated and maintained; and

5. Opacity from each nonroad engine must not exceed 10%, as determined per EPA Method 9.

(B)(B-) Permission to Operate.

(1) Permission to ~~((ø))~~ Operate may be granted ~~((;))~~ subject to ~~((reasonable))~~ conditions necessary to assure compliance with Chapter 70.94RCW, the rules and regulations adopted thereunder, and the ~~((Authority's))~~ Agency's regulation(s). If any conditions listed in Article V, Section 5.05(C) ~~((Subsection 5.05.B-))~~ are applicable to the proposal, a public comment period ~~((shall))~~ must be held ~~((pursuant))~~ according to Section 5.05(D) ~~((C-))~~.

~~((C-))~~(2) Permission to ~~((ø))~~ Operate may be granted for a limited time, but in no case ~~((shall a temporary or portable stationary source remain at a location))~~ remains effective for more than three hundred sixty-four (364) ~~((twelve))~~ consecutive ~~((months-))~~ days from the Permission to Operate approval date. If operation will exceed three hundred sixty-four (364) days, the owner or operator must submit an NOC application per Section 5.02, and receive an Order of Approval per Section 5.07. ~~((without first obtaining an approved Notice of Construction and Application for Approval-))~~

(3) The owner or operator of a portable source must not install or operate the portable source until the Agency approves the PSP application and issues a Permission to Operate.

(C)(D-) Permission to ((ø)) Operate ((shall be)) Becomes ((;)) Invalid if:

(1) ~~((;))~~ Construction, installation, or operation does not begin within ninety (90) days of receipt of ~~((permission- or))~~ Permission to Operate, unless approved by the Agency;

(2) ~~((;))~~ The operation is removed from the site ~~((;))~~;

(3) The portable source is operated at a location after three hundred sixty-four (364) days from the Permission to Operate approval date; or

(4) The owner or operator of a portable source establishes a permanent stationary source at that site for which the Permission to Operate was approved.

~~((E- Installation or operation of a temporary or portable stationary source shall not commence until the Authority approves the Notice of Construction or Notice of Intent to Install and Operate a Temporary Stationary Source application, whichever applies-))~~

~~((F- A temporary or portable stationary source, that is required to go through new source review, shall comply with the emission standards for a new source (including BACT or LAER, whichever is applicable under Sections 5.09.C & D) (except nonroad engines) and shall not cause a violation of applicable ambient air quality standards and, if in a nonattainment area, shall not interfere with scheduled attainment of national ambient quality standards-))~~

(D)(G-) Portable Sources ((The following operations are e)) Exempt from ((this)) Article V, Section 5.08.

(1) The following portable sources are exempt from the requirement to file a PSP application and obtain a Permission to Operate, prior to placing the portable source in operation.

(a) Portable sources listed in 1. through 4. below, that emit pollutants below those presented in WAC 173-400-100:

1. Abrasive blasting. ((units that operate at a site for less than 30 days in any 12-month period and as excepted in Exhibit R.2. Abrasive blasting units anticipated to operate more than 30 days in any 12-month period, but less than 1

year are subject to the requirements of this Section, except where the owner, operator, of an abrasive blasting unit, either establishes a permanent facility or operates an abrasive blasting unit at a site for more than 365 consecutive days, in which case, a Notice of Construction and Application for Approval must be approved by the Authority's, prior to establishment of said unit or facility-))

2. Rock drilling operations.

3. Blasting operations.

4. Woodwaste chipping and grinding operations ((that operate at a site for less than 30 days in any 12-month period)), except for operations that establish a permanent collection, storage, ((and/)) or processing facility at a site or sites for purpose of future processing, ((-All other woodwaste chipping and grinding operations are subject to the requirements of new source review and the owner or operator)) must obtain the ((Authority's)) Agency's approval of a NOC application ((Notice of Construction)), prior to establishment of the stationary source.

~~((b)(5-))~~ Soil and groundwater remediation projects that ((have insignificant air pollution impacts, as defined in Exhibit "R" of Article IV of this Regulation)) emit pollutants below those presented in Article IV, Section 4.04 (A)(5)(a) though (d).

~~((c)(6-))~~ All nonroad engines associated with portable rock crushing operations, portable asphalt production operations, and portable concrete production operations. ((compression ignition engines-))

(2) Exemption documentation. The owner or operator of any portable source exempted under Section 5.08(D) must maintain documentation in order to verify the portable source remains entitled to the exemption status and must present said documentation to an authorized Agency representative upon request. If an owner or operator of any source that is exempt from new source review under Article V as a result of the exemptions in 5.08 (D)(1) exceeds the emission thresholds in those exemptions, the owner or operator must immediately notify the Agency of the exceedance and submit a PSP application and receive a Permission to Operate from the Agency.

(3) Compliance with SRCAA Regulation I. An exemption from new source review under Section 5.08(D) is not an exemption from Regulation I, however portable sources are exempt from registration [Section 4.03 (A)(3)].

~~((E)(H-))~~ Prevention of Significant Deterioration. Except for nonroad engines, a ((temporary or)) portable ((stationary)) source that is considered a major stationary source or major modification within the meaning of WAC 173-400-113, must also comply with the requirements in WAC 173-400-700 through 750, as applicable. ((473-400-141-)) If a portable source is locating in a nonattainment area and if the portable source emits the pollutants or pollutant precursor for which the area is classified as nonattainment, the portable source must acquire a site-specific Order of Approval.

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

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

AMENDATORY SECTION

SECTION 5.09 OPERATING REQUIREMENTS FOR ORDER OF APPROVAL AND PERMISSION TO OPERATE

~~(A)((A-)) Proper Operation and Maintenance. All equipment, machines, devices, and other contrivances, constituting parts of, or called for ((by plans, specifications or other)) in the information submitted ((pursuant to)) per SRCAA Regulation I, Article V, Sections 5.02, 5.04, and 5.08 ((shall)) must be properly operated and be maintained in good working order. The control equipment must be ((and)) operated at all times that air contaminant emissions may occur, except as otherwise provided in the Order of Approval or Permission to Operate. ((unless otherwise specified by the Authority.))~~

~~(B)((B-)) Compliance. All conditions of approval((;)) established ((pursuant to)) under Article V, Sections 5.07 and 5.08((; shall)) must be complied with.~~

~~((C. All new and modified stationary sources shall employ Best Available Control Technology (BACT), and if applicable, Toxic Best Available Control Technology (TBACT). A new major stationary source or major modification, shall employ the lowest achievable emission rate (LAER) for the contaminants for which the area has been designated non-attainment and for which the proposed new source or modification is major.))~~

~~((D. In no event shall the application of RACT, BACT, TBACT, or LAER permit a new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable federal or state standard or regulation.))~~

(C) Back-up, Stand-by Internal Combustion Engine Operating Requirements. Operating requirements for internal combustion engines used for standby or back-up operations, are established by the Agency as follows:

(1) The hours of operation for expected maintenance and testing purposes must be limited to the maximum allowable that will comply with the requirements of Chapter 173-460 WAC. Maintenance and testing purposes means operating the engine to:

(a) Evaluate the ability of the engine or its supported equipment to perform during an emergency;

(b) Train personnel on emergency activities;

(c) Test an engine that has experienced a breakdown, or failure, or undergone a preventative overhaul during maintenance; or

(d) Exercise the engine if such operation is recommended by the engine or generator manufacturer.

(2) No limit will be placed on the hours of operation of the internal combustion engine for emergency use. Emergency use means providing electrical power or mechanical work during any of the following events or conditions:

(a) The failure or loss of all or part of normal power service to the facility beyond the control of the facility; or

(b) The failure or loss of all or part of a facility's internal power distribution system.

(3) The testing and maintenance hours of operation and the emergency hours of operation for the internal combustion engine must be recorded by the owner or operator and reported to the Agency annually upon request.

AMENDATORY SECTION

SECTION 5.10 CHANGES TO AN ORDER OF APPROVAL OR PERMISSION TO OPERATE

~~(A)((A-)) Constructed or Operated Differently than Approved Order. The ((Authority)) Agency may revoke, revise, or suspend an ((o))Order of ((a))Approval, coverage under a GOA, or a P((p))ermission to ((o))Operate ((a temporary stationary source, an order of approval for substantial replacement or alteration of emissions control equipment installed on an existing stationary source, or changes thereto,)) if the ((Authority)) Agency determines ((that)) the stationary or portable source is not constructed, installed, or operated as described in the application and information request forms. ((Notice of Construction and Application for Approval, or Notice of Intent to Install and Operate a Temporary Stationary Source, or changes thereto, including the plans, specifications, or other information submitted therewith. Such proceedings shall follow the same process that apply to the initial issuance of the order of approval or permission to operate.))~~

~~((B. In addition to revocation, revision or suspension of an order of approval or permit to operate of a stationary source, the Authority may issue a Notice of Violation (NOV) in accordance with RCW 70.94.211.))~~

(B) Transfer of Ownership/Name Change.

(1) If an existing stationary or portable source with a valid Order of Approval or Permission to Operate is transferred to new ownership or the business changes its name per Article IV, Section 4.02(E), and the source is unchanged by the transfer/name change, then the existing order is transferable to the new ownership/name change, as written.

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

(C) Change in Conditions.

~~(1)((C-)) The owner or operator may request, at any time, a change in conditions of an ((o))Order of ((a))Approval or ((p))Permission to ((o))Operate ((a temporary stationary source)) and the ((Authority)) Agency may approve such a request provided the ((Authority)) Agency finds ((that)) the criteria given in Section 5.07(A), as applicable, has been met:~~

~~((1. The change in conditions will not cause the stationary source to exceed an emissions standard;))~~

~~((2. No national ambient air quality standard shall be violated or if in a nonattainment area, shall not interfere with scheduled attainment of national ambient quality standards as a result of the change;))~~

~~((3. The change will not adversely impact the ability of the Authority to determine compliance with an emissions standard;))~~

~~((4. The revised order of approval or permission to operate will continue to require BACT, as defined at the time of the original order of approval or permission to operate, for each new source approved by the order of approval or permission to operate, except where the Federal Clean Air Act requires LAER; and))~~

~~(5. The revision meets the requirements of Article V of this Regulation, WAC 173-400-112, WAC 173-400-113 and WAC 173-400-141, as applicable.)~~

(2) Requests. Article V does not prescribe the exact form that change of condition requests must take. If the request is submitted in writing, the Agency must act upon the request consistent with the timelines in Article V, Sections 5.06 and 5.07 for an Order of Approval, or if a Permission to Operate, consistent with Section 5.08.

~~(D-)(3) Fee payment. The owner or operator requesting changes to an Order of Approval or Permission to Operate per Section 5.10 must pay applicable ((A)) fees, as established in SRCAA Regulation I, Article X, Section 10.07. ((of this Regulation, shall be assessed to, and paid by, the applicant for requests pursuant to Subsection 5.10.C.))~~

(D)((E-)) Agency Initiated Changes in Conditions.

(1)((2)) Order of ((a)) Approval((2)) and ((1)) Permission to ((e)) Operate((2)) revisions may be initiated by the ((Authority)) Agency, without fees charged to the owner or operator, provided the owner or operator of ((as long as)) the stationary source ((continues to comply)) has complied with all applicable requirements of Chapter 70.94 RCW, the rules and regulations adopted thereunder, and the ((Authority's)) Agency's regulation(s), and the ((Authority)) Agency determines ((that)) the ((e)) Order of ((a)) Approval or ((permit)) Permission to ((e)) Operate has:

~~(1-)) (a) ((has t)) Typographical errors;((o-))~~

(2-)) (b) ((has e)) Conditions listed therein that are technically infeasible ((ineffective or unreasonable, or))

~~(3. has conditions that no longer apply because the affected stationary source or associated process or process materials have been significantly altered, or))~~

(4-)) (c) ((has conditions that no longer apply due to revisions to federal, state, or local laws or regulations, or)) Additional or revised provisions that are needed to ensure compliance with Chapter 70.94 RCW, the rules and regulation adopted thereunder by the state or Agency, and federal regulations; or

~~(5-)) (d) Inaccurate ((does not accurately show current)) ownership information including((:)) name, address, phone number, or ((there are)) other minor administrative inaccuracies.~~

(2)((F-)) The ((Authority)) Agency may not modify, delete, or add conditions to an existing ((e)) Order of ((a)) Approval or ((permit)) Permission to ((e)) Operate under Article V, Section 5.10(D)((-E)), unless the owner or operator is notified in writing at least thirty (30) days in advance of the effective date of the change. Modified, deleted or added conditions may be appealed in accordance with Chapter 43.21B RCW.

(E)((G-)) Public Notice of Changes in Conditions. Changes to conditions in an ((e)) Order of ((a)) Approval or Permission to Operate ((for a new source, for modifications to an existing stationary source, and replacement or substantial alteration of emission control equipment of an existing stationary source)) are subject to the public involvement provisions of Article V, Section 5.05 ((of this Regulation)).

~~(H. This Article does not prescribe the exact form that change of condition requests must take. However, if the request is filed on an order of approval, that application must~~

~~be acted upon consistent with the timelines in Sections 5.06 and 5.07 or if a permit to operate, consistent with Section 5.08 of this Article.)~~

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

AMENDATORY SECTION

SECTION 5.11 NOTICE OF START-UP OF A STATIONARY SOURCE OR A PORTABLE SOURCE

After obtaining an Agency issued Order of Approval or Permission to Operate, the ((The)) owner or operator ((of the new, modified, or temporary stationary source, or replacement or substantial alteration of emission control equipment at an existing stationary source shall)) must notify the ((Authority)) Agency at least seven (7) days prior to the ((stationary source's)) expected start-up date, ((or a shorter time, if approved by the Authority.))

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

AMENDATORY SECTION

SECTION 5.12 WORK DONE WITHOUT AN APPROVAL

(A)((A-)) Compliance Investigation Fee. The Agency may assess a compliance investigation fee to the owner or operator for operating a stationary source, portable source, or control equipment without an approved Agency Order of Approval, GOA, or Permission to Operate. The compliance investigation fee established in SRCAA Regulation I, Article X, Section 10.07, is in addition to the fees required in Article V, Section 5.03 as a part of the NOC, GOA, or PSP review. The compliance investigation fee applies when: ((Except as provided for in Subsection 5.02.H and 5.02.M, when:))

(1)((-)) A stationary source is constructed, installed, modified, or operated prior to receiving an Order of Approval ((approval of a Notice of Construction application)) from the ((Authority)) Agency or coverage under a GOA; ((o-))

(2)((-)) ((Emission e)) Control equipment is replaced, installed, or substantially altered on an existing stationary source prior to receiving an Order of Approval ((approval of a Notice of Construction application)) from the ((Authority)) Agency; or

(3)((-)) A ((temporary or)) portable ((stationary)) source is established or startup ((installed or operated)) at a ((site)) location prior to receiving a Permission to Operate ((approval of either a Notice of Construction or Notice of intent to Establish a Temporary Stationary Source application)) from the ((Authority)) Agency, ((, whichever is appropriate.))

(B) Compliance with SRCAA Regulation I. ((the Authority may assess a compliance investigation fee to the owner or operator, in addition to the fees required in Sections 5.03 and 5.08 of this Regulation as a part of the Notice of Construction or Notice of intent to Establish a Temporary Stationary Source review. The compliance investigation fee is established in Section 10.07 of this Regulation.)) Payment of the compliance investigation fee does not relieve any person from the requirement to comply with applicable regulations, nor from any penalties for failure to comply.

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

AMENDATORY SECTION

SECTION 5.13 ORDER OF APPROVAL CONSTRUCTION TIME LIMITS

(A)~~(A-)~~ Time Limit. An ~~(e)~~(a) Order of ~~(a)~~Approval, issued ~~(pursuant to)~~ under SRCAA Regulation I, Article V, Section 5.07 ~~(or 5.08.A.1 shall)~~ becomes invalid if:

(1)~~(-)~~ Construction is not commenced within eighteen (18) months after the receipt of the approval;~~(-or)~~

(2)~~(-)~~ Construction is discontinued for a period of eighteen (18) months or more;~~(-or)~~

(3)~~(-)~~ Construction is not completed within eighteen (18) months of commencement.

(B)~~(B-)~~ Extension. The ~~(Authority)~~ Agency may grant an extension beyond the ~~(extend an)~~ eighteen (18)~~(-)~~ month period, as provided for in Article V, Section 5.13 (A) ~~(-A-)~~, upon a satisfactory showing that an extension is justified. The ~~(Authority)~~ Agency may approve such a request provided that:

(1)~~(-)~~ No new requirements, such as ~~(New Source Performance Standards)~~ NSPS (40 CFR Part 60), ~~(National Emissions Standards for Hazardous Air Pollutants)~~ NESHAP (40 CFR Parts 61 and 63), or state and local regulations, have been adopted ~~(pursuant to)~~ under Chapter 70.94 RCW or the (Federal Clean Air Act) FCCA (42 USC 7401 et seq.) which would change the ~~(e)~~(a) Order of ~~(a)~~Approval, had it been issued at the time of the extension;~~(and)~~

(2)~~(-)~~ ~~(If there is a)~~ No control (technology) equipment required (requirement, pursuant to sections) per WAC 173-400-112, WAC 173-400-113, or WAC 173-400-114; or Article V, (Section 5.09.C of this Article; that no technologies) have been subsequently identified which would change the ~~(e)~~(a) Order of ~~(a)~~Approval, had it been issued at the time of the extension;~~(and)~~

(3)~~(-)~~ The information presented in the NOC application, (Notice of Construction and Application for Approval and) associated documents, and the determinations ~~(that were made)~~ by the ~~(Authority)~~ Agency during review of the application continue to accurately represent the design, configuration, equipment, and emissions of the proposed stationary source; and

(4)~~(-)~~ The applicant certifies that the stationary source will comply with all applicable requirements of Chapter 70.94 RCW, the rules and regulations adopted thereunder, and the ~~(Authority's)~~ Agency's regulation(s).

(C)~~(C-)~~ Phased Projects. Article V, Section 5.13(A) ~~(Subsection 5.13.A-)~~ does not apply to the time period between construction of the approved phases of a phased construction project. Each construction phase must commence construction within eighteen (18) months of the projected and approved commencement date.

AMENDATORY SECTION

SECTION 5.14 APPEALS

(A-) Appeals. Decisions and orders of the Agency (An order of approval, permission to operate, conditions and change thereto, revocation, revision, or suspension thereof, or

order of denial of an application for installation and operation of a stationary source) may be appealed to the ~~(Pollution Control Hearings Board)~~ PCHB of Washington within thirty (30) calendar days of receipt, as provided in Chapter 43.21B RCW~~(-)~~

~~(B. The Authority shall promptly mail a copy of each order, approving, denying, revoking, revising, or suspending an Order of Approval or Permit to Operate, to the applicant and to any other party who submitted timely comments on the action. The approval, denial, revocation, revision, or suspension order shall include a notice advising the parties of their rights of appeal to the Pollution Control Hearings Board)~~ and, where applicable, to the U.S. EPA Environmental Appeals Board.

AMENDATORY SECTION

SECTION 5.15 OBLIGATION TO COMPLY

~~(A-)~~ The absence of an ordinance, resolution, rule or regulation, or the failure to issue an order ~~(pursuant to this)~~ per SRCAA Regulation I, Article V does (shall) not relieve any person from the obligation to comply with ~~(this)~~ Regulation I or with any other provision of law.

AMENDATORY SECTION

SECTION 6.01 OUTDOOR BURNING

~~(A-)~~(A) Purpose. ~~(f)~~(g) [WAC 173-425-010(1-3)]~~(g)~~ ~~(This Section)~~ SRCAA Regulation I, Article VI, Section 6.01 establishes controls for outdoor burning in Spokane County in order to:

(1)~~(-)~~ Minimize or prohibit outdoor burning to the greatest extent practicable.

(2)~~(-)~~ Minimize or eliminate the impact of emissions from outdoor burning by defining conditions under which outdoor burning may be conducted.

(3)~~(-)~~ Encourage the development and specify the use of reasonable alternatives to outdoor burning. Reasonable alternatives are methods for disposing of organic refuse (such as natural vegetation) that are available, reasonably economical, and less harmful to the environment than burning.

(4)~~(-)~~ Geographically limit outdoor burning in order to assure continued attainment of the ~~(National Ambient Air Quality Standards)~~ NAAQS for carbon monoxide (CO) and fine particulate matter (PM_{2.5}) as specified in 40 CFR Part 50.

~~(B-)~~(B) Applicability. ~~(f)~~(g) [WAC 173-425-020]~~(g)~~ (1)~~(-This)~~ Article VI, Section 6.01 applies to all outdoor burning in Spokane County except:

(a)~~(-)~~ Silvicultural burning. ~~(f)~~(g) [RCW 70.94.6534(1) & Chapter 332-24 WAC]~~(g)~~

Silvicultural burning is related to the following activities for the protection of life or property and/or the public health, safety, and welfare:

(i)1. Abating a forest fire hazard;

(ii)2. Prevention of a forest fire hazard;

(iii)3. Instruction of public officials in methods of forest firefighting;

(iv)4. Any silvicultural operation to improve the forest lands of the state; and

(v)5. Silvicultural burning used to improve or maintain fire ~~(dependant)~~ dependent ecosystems for rare plants or

animals within state, federal, and private natural area preserves, natural resource conservation areas, parks, and other wildlife areas.

(b)(-) Agricultural Burning. ~~((f))~~ Article VI, Section 6.01 ~~((of this Regulation))~~

Agricultural burning is burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation and/or crop rotation, necessary to destroy weeds or crop residue along farm fence rows, irrigation ditches, or farm drainage ditches, or where identified as a best management practice by the agricultural burning practices and research task force established in RCW 70.94.6528 or other authoritative source on agricultural practices.

(c)(-) Any outdoor burning on lands within the exterior boundaries of Indian reservations (unless provided for by intergovernmental agreement).

(2)(-~~This~~) Article VI, Section 6.01 specifically applies to:

(a)(-) Firefighting Instruction Fires.

(i) 1. Aircraft Crash Rescue Fire Training, Section 6.01 (D)(1)(a) ~~((Section 6.01.D.1.a))~~

(ii) 2. Extinguisher Training, Section 6.01 (D)(1)(b) ~~((Section 6.01.D.1.b))~~

(iii) 3. Forest Fire Training, Section 6.01 (D)(1)(c) ~~((Section 6.01.D.1.e))~~

(iv) 4. Structural Fire Training, Section 6.01 (D)(1)(d) ~~((Section 6.01.D.1.d))~~

(v) 5. Types of Other Firefighting Instruction Fires, Section 6.01 (D)(1)(e) ~~((Section 6.01.D.1.e))~~

(b)(-) Fire Hazard Abatement Fires, Section 6.01 (D)(2) ~~((Section 6.01.D.2))~~

(c)(-) Flag Retirement Ceremony Fires, Section 6.01 (D)(3) ~~((Section 6.01.D.3))~~

(d)(-) Indian Ceremonial Fires, Section 6.01 (D)(4) ~~((Section 6.01.D.4))~~

(e)(-) Land Clearing Fires, Section 6.01 (D)(5) ~~((Section 6.01.D.5))~~

(f)(-) Rare and Endangered Plant Regeneration Fires, Section 6.01 (D)(6) ~~((Section 6.01.D.6))~~

(g)(-) Recreational Fires, Section 6.01 (D)(7) ~~((Section 6.01.D.7))~~

(h)(-) Residential Fires, Section 6.01 (D)(8) ~~((Section 6.01.D.8))~~

(i)(-) Social Event Fires, Section 6.01 (D)(9) ~~((Section 6.01.D.9))~~

(j)(-) Storm or Flood Debris Fires, Section 6.01 (D)(10) ~~((Section 6.01.D.10))~~

(k)(-) Tumbleweed Fires, Section 6.01 (D)(11) ~~((Section 6.01.D.11))~~

(l)(-) Weed Abatement Fires, Section 6.01 (D)(12) ~~((Section 6.01.D.12))~~

(m)(-) Other Outdoor Fires, Section 6.01 (D)(13) ~~((Section 6.01.D.13))~~

(3)(-) The provisions of Chapter 173-425 WAC (Outdoor Burning) are herein incorporated by reference.

(4)(-) The provisions of ~~((this))~~ Article VI, Section 6.01 are severable. If any phrase, sentence, paragraph, or provision is held invalid, the application of such phrase, sentence,

paragraph, or provision to other circumstances and the remainder of this Section shall not be affected.

~~((C))~~ Definitions. ~~((f))~~ [WAC 173-425-030] ~~((g))~~

Words and phrases used in ~~((this))~~ Article VI, Section 6.01 shall have the meaning defined in Chapter 173-425 WAC, unless a different meaning is clearly required by context or is otherwise defined in this Section.

(1)(-) *Natural Vegetation* means unprocessed plant material from herbs, shrubbery, and trees, including grass, weeds, leaves, clippings, prunings, brush, branches, roots, stumps, and trunk wood. It does not include dimensional lumber, mills ends, etc.

(2)(-) *Outdoor Burning* means the combustion of material of any type in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion. For the purpose of this rule, "outdoor burning" means all types of outdoor burning except agricultural burning and silvicultural burning. ~~((f))~~ [RCW 70.94.6511] ~~((g))~~

(3)(-) *Permitting Agency* means the Spokane Regional Clean Air Agency (SRCAA or Agency) ~~((;))~~ or Spokane County, any fire protection agency within Spokane County, Washington State Department of Natural Resources (DNR), or the Spokane County Conservation District; upon delegation by or signed agreement with SRCAA. ~~((one or more of the following entities, whenever SRCAA and an entity have signed an agreement regarding a permitting program or SRCAA has delegated administration of the permitting program to one or more of the following entities, provided such delegation of authority has not been withdrawn: Spokane County, any fire protection agency within Spokane County, Washington State Department of Natural Resources (DNR), or the Spokane County Conservation District.))~~ [RCW 70.94.6530] ~~((g))~~

(4)(-) *Person* means any individual(s), firm, public corporation, private corporation, association, partnership, political subdivision, municipality, or government agency. It includes any person who has applied for and received a permit for outdoor burning; any person allowing, igniting, or attending a fire; or any person who owns or controls property on which outdoor burning occurs.

(5)(-) *Responsible Person* means any person who has applied for and received a permit for outdoor burning, or any person allowing, igniting, or attending to a fire, or any person who owns or controls property on which outdoor burning occurs.

~~((D))~~ (D) Outdoor Burning Permitted.

(1)(-) Firefighting Instruction Fires. ~~((f))~~ [WAC 173-425-020 (2)(f), WAC 173-425-030(5), WAC 173-425-050, WAC 173-425-060 (1), (2)(f) & (3-4)] ~~((g))~~

Firefighting instruction fires are fires for the purpose of firefighter training, including, but not limited to aircraft crash rescue fire training, extinguisher training, forest fire training, and structural fire training. Unless specified otherwise, ~~((this subsection))~~ Article VI, Section 6.01 (D)(1) serves as a general permit by ~~((SRCAA))~~ the Agency.

(a)(-) Aircraft Crash Rescue Fire Training. ~~((f))~~ [RCW 70.94.6546(1-2), WAC 173-425-020 (2)(f), WAC 173-425-030(5), WAC 173-425-050, WAC 173-425-060 (1), (2)(f) & (3-4)] ~~((g))~~

(~~(#)~~)1. Aircraft crash rescue training fires (~~(conducted pursuant to)~~) meeting all of the following criteria do not require a permit:

a.~~((#))~~ Firefighters participating in the training fires are limited to those who provide firefighting support to an airport that is either certified by the federal aviation administration or operated in support of military or governmental activities.

b.~~((#))~~ The fire training may not be conducted during an air pollution episode or any stage of impaired air quality declared under RCW 70.94.715 for the area where training is to be conducted.

c.~~((#))~~ The number of training fires allowed each year without a written permit shall be the minimum number necessary to meet federal aviation administration or other federal safety requirements.

d.~~((#))~~ The facility shall use current technology and be operated in a manner that will minimize, to the extent possible, the air contaminants generated during the training fire.

e.~~((#))~~ The organization conducting the training shall notify the local fire district or fire department prior to commencement of the training. The organization conducting the training shall also notify (~~(SRCAA)~~) the Agency prior to commencement of the training.

(~~(#)~~)2. Unless specifically authorized in writing by (~~(SRCAA)~~) the Agency, the prohibitions/requirements in Section 6.01(~~(F)~~~~(F of this Regulation)~~) apply to all aircraft crash rescue fire training fires as listed below:

a.~~((#))~~ Aircraft crash rescue fire training fires are exempt from the following:

i. (~~(F)~~~~(2)~~~~(F-2-)~~) Hauled Materials

ii. (~~(F)~~~~(6)~~~~(F-6-)~~) Containers

iii. (~~(F)~~~~(8)~~~~(F-8-)~~) Distances

iv. (~~(F)~~~~(10)~~~~(F-10-)~~) Burn Hours

v. (~~(F)~~~~(11)~~~~(F-11-)~~) Number of Piles

vi. (~~(F)~~~~(12)~~~~(F-12-)~~) Fuel Area

vii. (~~(F)~~~~(13)~~~~(F-13-)~~) Written Permits

viii. (~~(F)~~~~(15)~~~~(F-15-)~~) Areas Prohibited

b.~~((#))~~ Aircraft crash rescue fire training fires (~~(are not exempt from)~~) must comply with the following:

i. (~~(F)~~~~(1)~~~~(F-1-)~~) Prohibited Materials (except petroleum products)

ii. (~~(F)~~~~(3)~~~~(F-3-)~~) Curtailments

iii. (~~(F)~~~~(4)~~~~(F-4-)~~) Nuisance

iv. (~~(F)~~~~(5)~~~~(F-5-)~~) Burning Detrimental to Others

v. (~~(F)~~~~(7)~~~~(F-7-)~~) Extinguishing a Fire

vi. (~~(F)~~~~(9)~~~~(F-9-)~~) Landowner Permission

vii. (~~(F)~~~~(14)~~~~(F-14-)~~) Property Access

viii. (~~(F)~~~~(16)~~~~(F-16-)~~) Other Requirements

(~~(##)~~)3. Persons conducting aircraft crash rescue fire training are responsible for responding to citizen inquiries and resolving citizen complaints caused by the training activity.

(b)(-)) Extinguisher Training. (~~(f)~~) [WAC 173-425-020 (2)(f), WAC 173-425-030(5), WAC 173-425-050, WAC 173-425-060 (1), (2)(f) & (3-4)](~~(f)~~)

Extinguisher training fires of short-duration for instruction on the proper use of hand-held fire extinguishers may be conducted without a written permit provided all of the following requirements are met:

(~~(#)~~)1. Unless specifically authorized in writing by (~~(SRCAA)~~) the Agency, the prohibitions/requirements in Section 6.01(~~(F)~~~~(F of this Regulation)~~) apply to extinguisher training fires as listed below:

a.~~((#))~~ Extinguisher training fires are exempt from the following:

i. (~~(F)~~~~(2)~~~~(F-2-)~~) Hauled Materials

ii. (~~(F)~~~~(6)~~~~(F-6-)~~) Containers

iii. (~~(F)~~~~(8)~~~~(F-8-)~~) Distances

iv. (~~(F)~~~~(10)~~~~(F-10-)~~) Burn Hours

v. (~~(F)~~~~(11)~~~~(F-11-)~~) Number of Piles

vi. (~~(F)~~~~(12)~~~~(F-12-)~~) Fuel Area

vii. (~~(F)~~~~(13)~~~~(F-13-)~~) Written Permits

viii. (~~(F)~~~~(15)~~~~(F-15-)~~) Areas Prohibited

b.~~((#))~~ Extinguisher training fires (~~(are not exempt from)~~) must comply with the following:

i. (~~(F)~~~~(1)~~~~(F-1-)~~) Prohibited Materials (except as provided for in Section 6.01 (~~(D)~~~~(1)~~~~(b)2.~~) (~~(D-1.b.ii of this Regulation, below)~~))

ii. (~~(F)~~~~(3)~~~~(F-3-)~~) Curtailments

iii. (~~(F)~~~~(4)~~~~(F-4-)~~) Nuisance

iv. (~~(F)~~~~(5)~~~~(F-5-)~~) Burning Detrimental to Others

v. (~~(F)~~~~(7)~~~~(F-7-)~~) Extinguishing a Fire

vi. (~~(F)~~~~(9)~~~~(F-9-)~~) Landowner Permission

vii. (~~(F)~~~~(14)~~~~(F-14-)~~) Property Access

viii. (~~(F)~~~~(16)~~~~(F-16-)~~) Other Requirements

(~~(#)~~)2. Flammable or combustible materials used during the fire extinguisher training shall be limited to:

a.~~((#))~~ Less than two (2) gallons of clean kerosene or diesel fuel oil per training exercise, provided that gasoline or gasoline mixed with diesel or kerosene may be used only by local fire departments, fire protection agencies, fire marshals, or fire districts;

b.~~((#))~~ As much gaseous fuel (propane or natural gas) as required for the training exercise; or

c.~~((#))~~ Less than one-half (0.5) cubic yards of clean, solid combustible materials per training exercise. Examples of solid combustible materials are seasoned wood, untreated scrap lumber, and unused paper.

(~~(##)~~)3. All training must be conducted by fire training officials or an instructor qualified to perform fire training. A copy of the written training plan, and when applicable, instructor qualifications, must be provided to (~~(SRCAA)~~) the Agency upon request.

(~~(iv)~~)4. Prior to the training, the responsible person(s) conducting the exercise must notify the local fire department, fire marshal, or fire district and meet all applicable local ordinances and permitting requirements.

(~~(v)~~)5. Persons conducting extinguisher training fires are responsible for responding to citizen inquiries and resolving citizen complaints caused by the training activity.

(c)(-) Forest Fire Training. (~~(f)~~) [RCW 70.94.6546(4), WAC 173-425-020 (2)(f), WAC 173-425-030(5), WAC 173-425-050, WAC 173-425-060 (1), (2)(f) & (3-4)](~~(f)~~)

A fire protection agency may conduct forest fire training fires consisting of only natural vegetation without a written permit.

(~~(#)~~)1. Unless specifically authorized in writing by (~~(SRCAA)~~) the Agency, the prohibitions/requirements in

Section 6.01(F)(~~(F of this Regulation)~~) apply to forest fire training fires as listed below:

~~a.((a))~~ Forest fire training fires are exempt from the following:

- ~~i. (F)(2)(F-2))~~ Hauled Materials
- ~~ii. (F)(6)(F-6))~~ Containers
- ~~iii. (F)(8)(F-8))~~ Distances
- ~~iv. (F)(10)(F-10))~~ Burn Hours
- ~~v. (F)(11)(F-11))~~ Number of Piles
- ~~vi. (F)(12)(F-12))~~ Fuel Area
- ~~vii. (F)(13)(F-13))~~ Written Permits
- ~~viii. (F)(15)(F-15))~~ Areas Prohibited

~~b.((b))~~ Forest fire training fires (~~(are not exempt from)~~) must comply with the following:

- ~~i. (F)(1)(F-1))~~ Prohibited Materials
- ~~ii. (F)(3)(F-3))~~ Curtailments
- ~~iii. (F)(4)(F-4))~~ Nuisance
- ~~iv. (F)(5)(F-5))~~ Burning Detrimental to Others
- ~~v. (F)(7)(F-7))~~ Extinguishing a Fire
- ~~vi. (F)(9)(F-9))~~ Landowner Permission
- ~~vii. (F)(14)(F-14))~~ Property Access
- ~~viii. (F)(16)(F-16))~~ Other Requirements

~~((ii))2.~~ Grassland or wildland fires used for the purpose of forest fire training fires qualify as forest firefighting instruction fires. Grassland or wildland fires not used for the purpose of forest fire instruction fires shall be performed pursuant to Section 6.01 ~~(D)(1)(c)~~. (~~(D-1.e of this Regulation-Section 6.01-D-1.e is)~~) Types of Firefighting Instruction Fires Not Listed Above.

~~((iii))3.~~ Persons conducting forest fire training are responsible for responding to citizen inquiries and resolving citizen complaints caused by the training activity.

~~(d)(-))~~ Structural Fire Training. ~~((f))~~[RCW 52.12.150 (4), RCW 70.94.6546(3), WAC 173-425-020 (2)(f), WAC 173-425-030(5), WAC 173-425-050, WAC 173-425-060(1), (2)(f) & (3-4) ~~](g))~~

A fire protection agency may conduct structural fire training without a written permit provided all of the following requirements are met:

~~((i))1.~~ Unless specifically authorized in writing by ~~((SRCAA))~~ the Agency, the prohibitions/requirements in Section 6.01(F)(~~(F of this Regulation)~~) apply to structural fire training fires as listed below:

~~a.((a))~~ Structural fire training fires are exempt from the following:

~~i. (F)(1)(F-1))~~ Prohibited Materials (except as provided for in Section 6.01 ~~(D)(1)(d)4.)~~(~~(D-1.d.iv of this Regulation, below))~~)

- ~~ii. (F)(2)(F-2))~~ Hauled Materials
- ~~iii. (F)(6)(F-6))~~ Containers
- ~~iv. (F)(8)(F-8))~~ Distances
- ~~v. (F)(10)(F-10))~~ Burn Hours
- ~~vi. (F)(11)(F-11))~~ Number of Piles
- ~~vii. (F)(12)(F-12))~~ Fuel Area
- ~~viii. (F)(13)(F-13))~~ Written Permits
- ~~ix. (F)(15)(F-15))~~ Areas Prohibited

~~b.((b))~~ Structural fire training fires are (~~(are not exempt from)~~) must comply with the following:

- ~~i. (F)(3)(F-3))~~ Curtailments
- ~~ii. (F)(4)(F-4))~~ Nuisance

~~iii. (F)(5)(F-5))~~ Burning Detrimental to Others

~~iv. (F)(7)(F-7))~~ Extinguishing a Fire

~~v. (F)(9)(F-9))~~ Landowner Permission

~~vi. (F)(14)(F-14))~~ Property Access

~~vii. (F)(16)(F-16))~~ Other Requirements

~~((ii))2.~~ The owner and fire protection agency(ies) must meet the requirements in SRCAA Regulation I, Article IX - Asbestos Control Standards and ~~((SRCAA Regulation I,))~~ Article X, Section 10.09 - Asbestos Project And Demolition Notification Waiting Period And Fees, prior to conducting the training. This includes clearly identifying structures on the Notice of Intent that will be used for structural fire training.

~~((iii))3.~~ The fire protection agency(ies) conducting the fire training must have a fire training plan available to ~~((SRCAA))~~ the Agency upon request, and the purpose of the structural fire must be to train firefighters.

~~((vi))4.~~ Composition roofing, asphalt roofing shingles, asphalt siding materials, miscellaneous debris from inside the structure, carpet, linoleum, and floor tile shall not be burned unless such materials are an essential part of the fire training exercise and are described as such in the fire training plan. Materials removed from the structure(s) must be disposed of in a lawful manner prior to the training exercise.

~~((v))5.~~ Structural fire training shall not be conducted if, in consideration of prevailing air patterns, emissions from the fire ~~((is))~~ are likely to cause a nuisance.

~~((vi))6.~~ The fire protection agency(ies) conducting the training must provide notice to the owners of property adjoining the property on which the fire training will occur, to other persons who potentially will be impacted by the fire, and to additional persons ~~((in a broader manner))~~ if specifically ~~((requested))~~ directed by ~~((SRCAA))~~ the Agency.

~~((vii))7.~~ Structural fire training shall be performed in accordance with RCW 52.12.150.

~~((viii))8.~~ Persons conducting structural fire training are responsible for responding to citizen inquiries and resolving citizen complaints caused by the training activity.

~~(e)(-))~~ Types of Firefighting Instruction Fires Not Listed Above. ~~((f))~~[WAC 173-425-020 (2)(f), WAC 173-425-030 (5), WAC 173-425-050, WAC 173-425-060 (1), (2)(f) & (3-4) ~~](g))~~

A fire protection agency may conduct firefighting instruction fires not provided for in Article VI, Section 6.01 ~~(D)(1)(a - d)~~(~~(D-1.a-d of this Regulation)~~) (e.g., car rescue training fires, simulated fires at permanent fire training facilities, simulated fires via mobile fire training units, etc.) if all of the following are met:

~~((i))1.~~ Unless specifically authorized in writing by ~~((SRCAA))~~ the Agency, the prohibitions/requirements in Section 6.01(F)(~~(F of this Regulation)~~) apply to other firefighting instruction fires as listed below:

~~a.((a))~~ Other firefighting training fires are exempt from the following:

- ~~i. (F)(2)(F-2))~~ Hauled Materials
- ~~ii. (F)(6)(F-6))~~ Containers
- ~~iii. (F)(8)(F-8))~~ Distances
- ~~iv. (F)(10)(F-10))~~ Burn Hours
- ~~v. (F)(11)(F-11))~~ Number of Piles
- ~~vi. (F)(12)(F-12))~~ Fuel Area

vii. ~~(F)(13)~~ Written Permits

viii. ~~(F)(15)~~ Areas Prohibited

~~b.((b))~~ Other firefighting training fires ~~((are not exempt from))~~ must comply with the following:

i. ~~(F)(1)~~ Prohibited Materials (except as provided for in Section 6.01 ~~(D)(1)(e)3.))~~ ~~((D.1.e.iii of this Regulation))~~)

ii. ~~(F)(3)~~ Curtailments

iii. ~~(F)(4)~~ Nuisance

iv. ~~(F)(5)~~ Burning Detrimental to Others

v. ~~(F)(7)~~ Extinguishing a Fire

vi. ~~(F)(9)~~ Landowner Permission

vii. ~~(F)(14)~~ Property Access

viii. ~~(F)(16)~~ Other Requirements

~~((#))2.~~ The fire protection agency(ies) conducting the fire training must have a fire-training plan available to ~~((SRCAA))~~ the Agency upon request, and the purpose of the structural fire must be to train firefighters.

~~((##))3.~~ The prohibited materials described in Article VI, Section 6.01 ~~(F)(2)~~ ~~((F.2 of this Regulation))~~ may not be burned in any fire unless such materials are an essential part of the fire training exercise and are described as such in the fire training plan.

~~((#))4.~~ Persons conducting other firefighting training are responsible for responding to citizen inquiries and resolving citizen complaints caused by the training activity.

~~(2)(c)~~ Fire Hazard Abatement Fires.

~~(a)(c)~~ A permit from a permitting agency other than SRC AA is required pursuant to Article VI, Section 6.01 ~~(E)~~ ~~((F of this Regulation))~~ for fire hazard abatement fires. All fire hazard abatement fires require a written permit unless an alternate permitting method is specified in a written agreement (e.g. Memorandum of Understanding) between SRC AA and the permitting agency.

~~(b)(c)~~ Unless specifically authorized in writing by the permitting agency and pursuant to a written agreement between SRC AA and the permitting agency, the prohibitions/requirements in Section 6.01 ~~(F)~~ ~~((F of this Regulation))~~ apply as listed below:

~~((#))1.~~ Fire hazard abatement fires may be exempt from the following at the permitting agency's discretion:

i. ~~(F)(8)~~ Distances

ii. ~~(F)(11)~~ Number of Piles

iii. ~~(F)(12)~~ Fuel Area

~~((#))2.~~ Fire hazard abatement fires ~~((are not exempt from))~~ must comply with the following:

i. ~~(F)(1)~~ Prohibited Materials

ii. ~~(F)(2)~~ Hauled Materials

iii. ~~(F)(3)~~ Curtailments

iv. ~~(F)(4)~~ Nuisance

v. ~~(F)(5)~~ Burning Detrimental to Others

vi. ~~(F)(6)~~ Containers

vii. ~~(F)(7)~~ Extinguishing a Fire

viii. ~~(F)(9)~~ Landowner Permission

ix. ~~(F)(10)~~ Burn Hours

x. ~~(F)(13)~~ Written Permits

xi. ~~(F)(14)~~ Property Access

xii. ~~(F)(15)~~ Areas Prohibited

xiii. ~~(F)(16)~~ Other Requirements

~~(3)(c)~~ Flag Retirement Ceremony Fires. ~~((#))~~ [RCW 70.94.6522, WAC 173-425-020 (2)(j), WAC 173-425-030 (15), WAC 173-425-040(5), WAC 173-425-060 (1)(b), and WAC 173-425-060 (1), (2)(j) & (3-4)] ~~((#))~~

A flag retirement ceremony fire is a ceremonial fire for the purpose of disposing of cotton or wool flags of the United States of America, by fire, pursuant to 36 United States Code 176(k). A flag retirement ceremony fire is a type of other outdoor fire as provided for in WAC 173-425-030(15). The ceremony generally involves placing the flags one at a time in a small fire during the ceremony until the last flag is burned.

~~(a)((This subsection))~~ Article VI, Section 6.01 ~~(D)(3)~~ serves as a general permit by ~~((SRCAA))~~ the Agency.

~~(b)(c)~~ The prohibitions/requirements in Section 6.01 ~~(F)~~ ~~((F of this Regulation))~~ apply to flag retirement ceremony fires as listed below:

~~((#))1.~~ Unless specifically authorized in writing by ~~((SRCAA))~~ the Agency, flag retirement ceremony fires are exempt from the following:

i. ~~(F)(2)~~ Hauled Materials

ii. ~~(F)(6)~~ Containers

iii. ~~(F)(8)~~ Distances

iv. ~~(F)(10)~~ Burn Hours

v. ~~(F)(11)~~ Number of Piles

vi. ~~(F)(12)~~ Fuel Area

vii. ~~(F)(13)~~ Written Permits

viii. ~~(F)(15)~~ Areas Prohibited

~~((#))2.~~ Flag retirement ceremony fires are ~~((are not exempt from))~~ must comply with the following:

i. ~~(F)(1)~~ Prohibited Materials (except for cotton or wool flags and minimal accelerant necessary to burn the flags)

ii. ~~(F)(3)~~ Curtailments

iii. ~~(F)(4)~~ Nuisance

iv. ~~(F)(5)~~ Burning Detrimental to Others

v. ~~(F)(7)~~ Extinguishing a Fire

vi. ~~(F)(9)~~ Landowner Permission

vii. ~~(F)(14)~~ Property Access

viii. ~~(F)(16)~~ Other Requirements

~~(c)(c)~~ A ceremony for disposal of unserviceable cotton or wool flags using methods other than burning (e.g. burying or recycling) or burning a small number of representative cotton or wool flags for the flag retirement ceremony is recommended, but not required.

~~(d)(c)~~ Burning flags made of synthetic materials (e.g. nylon) is prohibited.

~~(4)(c)~~ Indian Ceremonial Fires. ~~((#))~~ [RCW 70.94.6550, WAC 173-425-020 (2)(h), WAC 173-425-030(8), WAC 173-425-050, WAC 173-425-060 (1), (2)(h) & (3-4)] ~~((#))~~

Indian ceremonial fires are fires using charcoal or clean, dry, bare, untreated wood (for the purpose of this definition, it includes commercially manufactured fire logs) necessary for Native American Ceremonies (i.e. conducted by and for Native Americans) if part of a religious ritual.

~~(a)((This subsection))~~ Article VI, Section 6.01 ~~(D)(4)~~ serves as a general permit by ~~((SRCAA))~~ the Agency.

~~(b)(c)~~ Unless specifically authorized in writing by ~~((SRCAA))~~ the Agency, the prohibitions/requirements in Section 6.01 ~~(F)~~ ~~((F of this Regulation))~~ apply to Indian ceremonial fires as listed below:

~~(h)~~1. Indian ceremonial fires are exempt from the following:

- ~~i. (F)(2)(F-2) Hauled Materials~~
- ~~ii. (F)(6)(b)(F-6-b) Containers~~
- ~~iii. (F)(10)(F-10) Burn Hours~~
- ~~iv. (F)(13)(F-13) Written Permits~~
- ~~v. (F)(15)(F-15) Areas Prohibited~~

~~(h)~~2. Indian ceremonial fires ~~((are not exempt from))~~ must comply with the following:

- ~~i. (F)(1)(F-1) Prohibited Materials~~
- ~~ii. (F)(3)(F-3) Curtailments~~
- ~~iii. (F)(4)(F-4) Nuisance~~
- ~~iv. (F)(5)(F-5) Burning Detrimental to Others~~
- ~~v. (F)(6)(F-6-a) Containers (burn barrels)~~
- ~~vi. (F)(7)(F-7) Extinguishing a Fire~~
- ~~vii. (F)(8)(F-8) Distances~~
- ~~viii. (F)(9)(F-9) Landowner Permission~~
- ~~ix. (F)(11)(F-11) Number of Piles~~
- ~~x. (F)(12)(F-12) Fuel Area~~
- ~~xi. (F)(14)(F-14) Property Access~~
- ~~xii. (F)(16)(F-16) Other Requirements~~

~~(5)(c)~~ Land Clearing Fires. ~~((f))~~[WAC 173-425-020 (2)(b), WAC 173-425-030(9), WAC 173-425-040(1-5), WAC 173-425-050, WAC 173-425-060 (1)(b) and WAC 173-425-060 (1), (2)(b) & (3-4)]~~((g))~~

~~(a)(c)~~ All land clearing burning, except for silvicultural-to-agricultural and residential land clearing burning, is prohibited effective January 13, 2002.

~~(b)(c)~~ Silvicultural-to-agricultural burning is prohibited after April 30, 2009.

~~(c)(c)~~ Residential land clearing burning is prohibited after December 31, 2010. Residential land clearing fires are limited to fires consisting of trees, shrubbery, or other natural vegetation from land clearing projects (i.e., projects that clear the land surface so it can be developed, used for a different purpose, or left unused) where the natural vegetation is cleared from less than one acre of forested land on a five (5) acre or larger parcel of land in non-commercial ownership. ~~((f))~~[RCW 70.94.6526(2)]~~((g))~~. Residential land clearing fires may also have the effect of abating or prevention of a forest fire hazard and thereby fit the definition of silvicultural burning. In those situations where residential land clearing burning consists of materials cleared from less than one (1) acre of forested land on a five (5) acre or larger parcel of land in non-commercial ownership is determined by DNR to meet the criteria to be defined as silvicultural burning, SRCAA may defer the decision to DNR to approve the fire and issue a permit pursuant to a Memorandum of Understanding between SRCAA and DNR. In so doing, DNR acknowledges that the fire is silvicultural burning and subject to Chapter 332-24 WAC.

~~(6)(c)~~ Rare and Endangered Plant Regeneration Fires. ~~((f))~~[RCW 70.94.6524, RCW 70.94.6534(2), WAC 173-425-020 (2)(g), WAC 173-425-030(19), WAC 173-425-050, WAC 173-425-060 (1), (2)(g), (3-4) & (6)]~~((g))~~

Rare and endangered plant regeneration fires are fires necessary to promote the regeneration of rare and endangered plants found within natural area preserves as identified in Chapter 79.70 RCW.

~~(a)(c)~~ Pursuant to RCW 70.94.6534(2), the appropriate fire protection agency permits and regulates rare and endangered plant regeneration fires on lands where the department of natural resources does not have fire protection responsibility.

~~(b)(c)~~ Unless otherwise allowed or required by the fire protection agency, the prohibitions/requirements in Article VI, Section 6.01(F)~~((F of this Regulation))~~ apply to rare and endangered plant regeneration fires as listed below:

~~(h)~~1. Rare and endangered plant regeneration fires are exempt from the following:

- ~~i. (F)(8)(F-8) Distances~~
- ~~ii. (F)(10)(F-10) Burn Hours~~
- ~~iii. (F)(11)(F-11) Number of Piles~~
- ~~iv. (F)(12)(F-12) Fuel Area~~
- ~~v. (F)(13)(F-13) Written Permits~~
- ~~vi. (F)(15)(F-15) Areas Prohibited~~

~~(h)~~2. Rare and endangered plant regeneration fires ~~((are not exempt from))~~ must comply with the following:

- ~~i. (F)(1)(F-1) Prohibited Materials~~
- ~~ii. (F)(2)(F-2) Hauled Materials~~
- ~~iii. (F)(3)(F-3) Curtailments~~
- ~~iv. (F)(4)(F-4) Nuisance~~
- ~~v. (F)(5)(F-5) Burning Detrimental to Others~~
- ~~vi. (F)(6)(F-6) Containers~~
- ~~vii. (F)(7)(F-7) Extinguishing a Fire~~
- ~~viii. (F)(9)(F-9) Landowner Permission~~
- ~~ix. (F)(14)(F-14) Property Access~~
- ~~x. (F)(16)(F-16) Other Requirements~~

~~(c)(c)~~ Pursuant to WAC 173-425-060(6), any agency that issues permits, or adopts a general permit for rare and endangered plant regeneration fires is responsible for field response to outdoor burning complaints and enforcement of all permit conditions and requirements of Chapter 173-425 WAC unless another agency has agreed under WAC 173-425-060 (1)(a) to be responsible for certain field response or enforcement activities. Except for enforcing fire danger burn bans as referenced in WAC 173-425-050 (3)(a)(iii), ~~((SRCAA))~~ the Agency may also perform complaint response and enforcement activities.

~~(7)(c)~~ Recreational Fires. [WAC 173-425-020 (2)(i), WAC 173-425-030(21), WAC 173-425-050, WAC 173-425-060 (1), (2)(i) & (3-4)]~~((g))~~

A recreational fire is a small fire with a fuel area no larger than three (3) feet in diameter and two (2) feet in height and is limited to cooking fires, campfires, and fires for pleasure using charcoal or firewood in designated areas on public lands (e.g. campgrounds) or on private property. Firewood refers to clean, dry (e.g., tree trunk wood that is split and seasoned and has less than 20% ~~((percent))~~ moisture content), bare, wood from trees. Commercially manufactured fire logs are acceptable fuels unless determined otherwise by ~~((SRCAA))~~ the Agency. Fires fueled by liquid or gaseous fuels (e.g. propane or natural gas barbecues) are not considered recreational fires. Fires used for debris disposal are not considered recreational fires.

~~(a)(c)~~ This ~~((subsection))~~ Article VI, Section 6.01 (D) (7) serves as a general permit by ~~((SRCAA))~~ the Agency.

(b)(-) The prohibitions/requirements in Section 6.01(F) (~~(F of this Regulation)~~) apply to recreational fires as listed below:

(i) 1. Recreational fires are exempt from the following:

i. (F)(2)(~~(F-2)~~) Hauled Materials

ii. (F)(6)(b)(~~(F-6.b)~~) Containers

iii. (F)(10)(~~(F-10)~~) Burn Hours

iv. (F)(13)(~~(F-13)~~) Written Permits

v. (F)(15)(~~(F-15)~~) Areas Prohibited

(ii) 2. Recreational fires (~~(are not exempt from)~~) must comply with the following:

i. (F)(1)(~~(F-1)~~) Prohibited Materials

ii. (F)(3)(~~(F-3)~~) Curtailments

iii. (F)(4)(~~(F-4)~~) Nuisance

iv. (F)(5)(~~(F-5)~~) Burning Detrimental to Others

v. (F)(6)(a)(~~(F-6.a)~~) Containers (burn barrels)

vi. (F)(7)(~~(F-7)~~) Extinguishing a Fire

vii. (F)(8)(~~(F-8)~~) Distances

viii. (F)(9)(~~(F-9)~~) Landowner Permission

ix. (F)(11)(~~(F-11)~~) Number of Piles

x. (F)(12)(~~(F-12)~~) Fuel Area

xi. (F)(14)(~~(F-14)~~) Property Access

xii. (F)(16)(~~(F-16)~~) Other Requirements

(8)(-) Residential Fires (also referred to as Residential Burning or Residential Yard and Garden Debris Burning). ((f))[WAC 173-425-020 (2)(a), WAC 173-425-030(22), WAC 173-425-040 (1-3) & (5), WAC 173-425-050, WAC 173-425-060 (1), (2)(a) & (3-6)]

A residential fire is an outdoor fire consisting of natural yard and garden debris (i.e., dry garden trimmings, dry tree clippings, dry leaves, etc.) originating on the maintained/improved area of residential property (i.e. lands immediately adjacent and in close proximity to a human dwelling), and burned on such lands by the property owner and/or any other responsible person.

(a)(-) A permit from a permitting agency other than SRCAA is required pursuant to Article VI, Section 6.01(E) (~~(F of this Regulation)~~). All residential fires require a written permit unless an alternate permitting method (e.g. general permit adopted by rule) is specified in a written agreement (e.g. Memorandum of Understanding) between SRCAA and the permitting agency.

(b)(-) The prohibitions/requirements in Section 6.01(F) (~~(F of this Regulation)~~) apply to residential fires as listed below:

(i) 1. No exemptions apply to residential fires.

(ii) 2. Residential fires (~~(are not exempt from)~~) must comply with the following:

i. (F)(1)(~~(F-1)~~) Prohibited Materials

ii. (F)(2)(~~(F-2)~~) Hauled Materials

iii. (F)(3)(~~(F-3)~~) Curtailments

iv. (F)(4)(~~(F-4)~~) Nuisance

v. (F)(5)(~~(F-5)~~) Burning Detrimental to Others

vi. (F)(6)(~~(F-6)~~) Containers

vii. (F)(7)(~~(F-7)~~) Extinguishing a Fire

viii. (F)(8)(~~(F-8)~~) Distances

ix. (F)(9)(~~(F-9)~~) Landowner Permission

x. (F)(10)(~~(F-10)~~) Burn Hours

xi. (F)(11)(~~(F-11)~~) Number of Piles

xii. (F)(12)(~~(F-12)~~) Fuel Area (except as provided in Section 6.01 (D)(8)(c) (~~(D.8.c of this Regulation, below)~~))

xiii. (F)(13)(~~(F-13)~~) Written Permits

xiv. (F)(14)(~~(F-14)~~) Property Access

xv. (F)(15)(~~(F-15)~~) Areas Prohibited

xvi. (F)(16)(~~(F-16)~~) Other Requirements

(c)(-) The fuel area is limited to four (4) feet in diameter and three (3) feet in height unless the written permit issued by the permitting agency specifically states otherwise. Under no circumstance shall the fuel area be greater than ten (10) feet in diameter and six (6) feet in height.

(d)(-) No vegetation shall exceed four (4) inches in diameter unless the permitting agency provides a site-specific exemption in a written permit. If larger diameter vegetation is allowed, the fire shall be constructed using heavy equipment such as a track hoe or excavator with an operator on site at all times. Fans must be employed to improve combustion.

(e)(-) Residential fires must be at least five hundred (500) feet away from forest slash.

(f)(-) Residential fires must be at least fifty (50) feet away from any adjacent land under different ownership unless the permitting agency provides a site-specific exception in the written permit and the respective neighboring landowner or landowner's designated representative gives the person responsible for burning approval to burn within fifty (50) feet of his/her land.

(g)(-) In addition to the prohibitions in Section 6.01(F)(15)(~~(F-15)~~), residential burning is prohibited within any area where a permitting agency does not administer a residential burning program.

(9)(-) Social Event Fires. ((f))[WAC 173-425-020 (2)(i), WAC 173-425-030(21), WAC 173-425-050, WAC 173-425-060 (1), (2)(i) & (4)](9)

A social event fire is a fire that may be greater than three (3) feet in diameter and two (2) feet in height and unless otherwise approved by ((SRCAA)) the Agency, is limited to events or celebrations open to the general public. A social event fire is limited to using charcoal or firewood which occurs in designated areas on public lands or on private property. Firewood refers to clean, dry (e.g., tree trunk wood that is split and seasoned with less than 20% (~~(percent)~~) moisture content), bare, wood from trees. Commercially manufactured fire logs are acceptable fuels. Fires used for debris disposal are not considered social event fires.

(a)(-) A written permit from ((SRCAA)) the Agency is required pursuant to Article VI, Section 6.01(E) (~~(F of this Regulation)~~) and, unless otherwise approved by ((SRCAA)) the Agency, must be submitted at least ten (10) working days prior to the first proposed burn date.

(b)(-) Unless specifically authorized in writing by ((SRCAA)) the Agency, the prohibitions/requirements in Section 6.01(F) (~~(F of this Regulation)~~) apply as listed below:

(i) 1. Social event fires may be exempt from the following at ((SRCAA's)) the Agency's discretion:

i. (F)(2)(~~(F-2)~~) Hauled Materials

ii. (F)(6)(b)(~~(F-6.b)~~) Containers

iii. (F)(8)(~~(F-8)~~) Distances

iv. (F)(10)(~~(F-10)~~) Burn Hours

v. (F)(11)(~~(F-11)~~) Number of Piles

vi. (F)(12)(~~(F-12)~~) Fuel Area

vii. ~~(F)(15)~~~~((F-15-))~~ Areas Prohibited

~~(#)2. Social event fires ((are not exempt from))~~ must comply with the following:

i. ~~(F)(1)~~~~((F-1-))~~ Prohibited Materials

ii. ~~(F)(3)~~~~((F-3-))~~ Curtailments

iii. ~~(F)(4)~~~~((F-4-))~~ Nuisance

iv. ~~(F)(5)~~~~((F-5-))~~ Burning Detrimental to Others

v. ~~(F)(6)(a)~~~~((F-6-a-))~~ Containers (burn barrels)

vi. ~~(F)(7)~~~~((F-7-))~~ Extinguishing a Fire

vii. ~~(F)(9)~~~~((F-9-))~~ Landowner Permission

viii. ~~(F)(13)~~~~((F-13-))~~ Written Permits

ix. ~~(F)(14)~~~~((F-14-))~~ Property Access

x. ~~(F)(16)~~~~((F-16-))~~ Other Requirements

~~(10)~~~~(-) Storm or Flood Debris Fires. ((#))~~[RCW 70.94.-743 (1)(c), WAC 173-425-020 (2)(c), WAC 173-425-030 (24), WAC 173-425-040(5), WAC 173-425-050, WAC 173-425-060 (1), (2)(c) & (3-4)]~~((#))~~

Storm and flood debris fires are fires consisting of natural vegetation deposited on lands by storms or floods that occurred within the previous twenty-four (24) months, and resulted in an emergency being declared or proclaimed in the area by city, county, or state government, and burned by the property owner or other responsible person on lands where the natural vegetation was deposited by the storm or flood.

(a)~~(-)~~ A written permit from ~~((SRCAA))~~ the Agency is required pursuant to Article VI, Section 6.01~~(E)~~~~((F of this Regulation))~~ and, unless otherwise approved by ~~((SRCAA))~~ the Agency, must be submitted at least ten (10) working days prior to the first proposed burn date.

(b)~~(-)~~ Unless specifically authorized in writing by ~~((SRCAA))~~ the Agency, the prohibitions/requirements in Section 6.01~~(F)~~~~((F of this Regulation))~~ apply as listed below:

~~(#)1. Storm or flood debris fires may be exempt from the following at ((SRCAA's))~~ the Agency's discretion:

i. ~~(F)(12)~~~~((F-12-))~~ Fuel Area

~~(#)2. Storm or flood debris fires ((are not exempt from))~~ must comply with the following:

i. ~~(F)(1)~~~~((F-1-))~~ Prohibited Materials

ii. ~~(F)(2)~~~~((F-2-))~~ Hauled Materials

iii. ~~(F)(3)~~~~((F-3-))~~ Curtailments

iv. ~~(F)(4)~~~~((F-4-))~~ Nuisance

v. ~~(F)(5)~~~~((F-5-))~~ Burning Detrimental to Others

vi. ~~(F)(6)~~~~((F-6-))~~ Containers

vii. ~~(F)(7)~~~~((F-7-))~~ Extinguishing a Fire

viii. ~~(F)(8)~~~~((F-8-))~~ Distances

ix. ~~(F)(9)~~~~((F-9-))~~ Landowner Permission

x. ~~(F)(10)~~~~((F-10-))~~ Burn Hours

xi. ~~(F)(11)~~~~((F-11-))~~ Number of Piles

xii. ~~(F)(13)~~~~((F-13-))~~ Written Permits

xiii. ~~(F)(14)~~~~((F-14-))~~ Property Access

xiv. ~~(F)(15)~~~~((F-15-))~~ Areas Prohibited

xv. ~~(F)(16)~~~~((F-16-))~~ Other Requirements

~~(11)~~~~(-) Tumbleweed Fires. ((#))~~[RCW 70.94.6554]~~((#))~~
Tumbleweed fires are fires to dispose of dry plants (e.g., Russian Thistle and Tumbleweed Mustard Plants) that have been broken off, and rolled about, by the wind. Outdoor burning of tumbleweeds is prohibited. However, agricultural operations may burn tumbleweeds pursuant to Article VI, Section 6.11 ~~((of this Regulation))~~ and Chapter 173-430 WAC.

~~(12)~~~~(-) Weed Abatement Fires. ((#))~~[RCW 70.94.6552, Chapter 16-750 WAC, WAC 173-425-020 (2)(e), WAC 173-425-030(27), WAC 173-425-040(5), WAC 173-425-050, WAC 173-425-060 (1), (2)(e) & (3-4)]~~((#))~~

A weed abatement fire is any outdoor fire undertaken for the sole purpose of disposing of noxious weeds identified in the state noxious weed list.

(a)~~(-)~~ A written permit from a permitting agency other than SRCAA is required pursuant to Article VI, Section 6.01 ~~(E)~~~~((F of this Regulation))~~.

(b)~~(-)~~ The prohibitions/requirements in Section 6.01~~(F)~~~~((F of this Regulation))~~ apply to weed abatement fires as listed below:

~~(#)1. Weed abatement fires may be exempt from the following at the permitting agency's discretion:~~

i. ~~(F)(11)~~~~((F-11-))~~ Number of Piles (refer to Section 6.01 ~~(D)~~~~(11)(c)~~~~((D-11-e of this Regulation))~~), below)

ii. ~~(F)(12)~~~~((F-12-))~~ Fuel Area (refer to Section 6.01 ~~(D)~~~~(11)(c)~~~~((D-11-e of this Regulation))~~), below)

~~(#)2. Weed abatement fires ((are not exempt from))~~ must comply with the following:

i. ~~(F)(1)~~~~((F-1-))~~ Prohibited Materials

ii. ~~(F)(2)~~~~((F-2-))~~ Hauled Materials

iii. ~~(F)(3)~~~~((F-3-))~~ Curtailments

iv. ~~(F)(4)~~~~((F-4-))~~ Nuisance

v. ~~(F)(5)~~~~((F-5-))~~ Burning Detrimental to Others

vi. ~~(F)(6)~~~~((F-6-))~~ Containers

vii. ~~(F)(7)~~~~((F-7-))~~ Extinguishing a Fire

viii. ~~(F)(8)~~~~((F-8-))~~ Distances

ix. ~~(F)(9)~~~~((F-9-))~~ Landowner Permission

x. ~~(F)(10)~~~~((F-10-))~~ Burn Hours

xi. ~~(F)(13)~~~~((F-13-))~~ Written Permits

xii. ~~(F)(14)~~~~((F-14-))~~ Property Access

xiii. ~~(F)(15)~~~~((F-15-))~~ Areas Prohibited

xiv. ~~(F)(16)~~~~((F-16-))~~ Other Requirements

(c)~~(-)~~ If burn piles are required by the permitting agency, the fuel area for each burn pile is limited to ten (10) feet in diameter and six (6) feet in height unless the written permit issued by the permitting agency specifically states otherwise.

(d)~~(-)~~ Burning shall be limited to Monday through Friday and shall not be conducted on federally observed holidays.

~~(13)~~~~(-) Other Outdoor Fires. ((#))~~[RCW 70.94.6522, WAC 173-425-020 (2)(j), WAC 173-425-030(15), WAC 173-425-040(5), WAC 173-425-060 (1)(b), and WAC 173-425-060 (1), (2)(j) & (3-4)]~~((#))~~

Other outdoor fires are any type of outdoor fires not specified in WAC 173-425-020 (2)(a-i).

(a)~~(-)~~ Other outdoor burning will generally be limited by ~~((SRCAA))~~ the Agency to outdoor fires necessary to protect public health and safety.

(b)~~(-)~~ Other outdoor burning will generally not be allowed unless ~~((SRCAA))~~ the Agency determines that extenuating circumstances exist that necessitate burning be allowed.

(c)~~(-)~~ A permit application must be submitted at least ten (10) working days prior to the first proposed burn date unless ~~((SRCAA))~~ the Agency waives the advance application period. A written permit from ~~((SRCAA))~~ the Agency is

required pursuant to Article VI, Section 6.01 ~~(E)~~ ~~(-E of this Regulation)~~ unless ~~((SRCAA))~~ the Agency approves a verbal or electronic permit in lieu of a written permit. The applicant is responsible for payment of a permit application fee in the amount specified in Article X, Section 10.13 ~~((of this Regulation))~~.

~~(E)~~ (E) Application For and Permitting of Written Outdoor Burning Permits.

Outdoor burning requiring a written permit pursuant to Article VI, Section 6.01 ~~(D)~~ ~~(-D of this Regulation)~~ is subject to all of the following requirements:

~~(1)~~ (1) Permit Application.

~~(a)~~ (a) It shall be unlawful for any person to cause or allow outdoor burning unless an application for a written permit, including the required fee specified by the permitting agency (SRCAA's outdoor burning permit fees are specified in SRCAA's the Consolidated Fee Schedule pursuant to Article X, Section 10.13 ~~((of this Regulation))~~) and any additional information requested by the permitting agency, has been submitted to the permitting agency on approved forms, in accordance with the advance application period as specified by the permitting agency.

~~(b)~~ (b) Incomplete or inaccurate applications may be returned to the applicant as incomplete. The advance application period begins when a complete and accurate application, including the required fee, has been received by the permitting authority.

~~(c)~~ (c) Unless otherwise approved by the permitting agency or unless specified otherwise in Section 6.01, applications will be accepted no more than ninety (90) days prior to the first proposed burn date.

~~(d)~~ (d) A separate application must be completed and submitted to the appropriate permitting agency for each outdoor burn permit requested.

~~(e)~~ (e) A permit for outdoor burning shall not be granted on the basis of a previous permit history.

~~(2)~~ (2) Denial or Revocation of a Permit.

~~(a)~~ (a) The permitting agency may deny a permit if it is determined by the permitting agency that the application is incomplete or inaccurate. The advance application period in Article X, Section 10.13 ~~((of this Regulation))~~ does not begin until a complete and accurate application, including any additional information requested by the permitting agency, is received by the permitting agency.

~~(b)~~ (b) The permitting agency may deny a permit or revoke a previously issued permit if it is determined by the permitting agency that the application contained inaccurate information, or failed to contain pertinent information, and the information is deemed by the permitting agency to be significant enough to have a bearing on the permitting agency's decision to grant a permit.

~~(c)~~ (c) An application for a permit shall be denied if the permitting agency determines that the proposed burning will cause or is likely to cause a nuisance (refer to Article VI, Section 6.01 ~~(F)~~ ~~(-F of this Regulation)~~). In making this determination, the permitting agency may consider if the permit can be conditioned in such a way that burning is not likely to cause a nuisance (e.g., limit burning to specific wind directions, restrict burn hours, restrict pile size, etc.).

~~(d)~~ (d) The permitting agency may deny a permit for other reasons and shall provide the reason(s) in the applicant's permit denial.

~~(3)~~ (3) Permit Conditions. Permits may include requirements and restrictions beyond those specified in SRCAA Regulation I.

~~(4)~~ (4) Permit Expiration. Written permits shall be valid for no more than thirty (30) consecutive calendar days unless specified otherwise in Section 6.01 ~~(D)~~ ~~(-D)~~ or in the permit. In no circumstance will a permit be valid for more than one calendar year.

~~(F)~~ (F) Prohibitions/Requirements. ~~((E))~~ [WAC 173-425-050 & WAC 173-425-060(4)] ~~((G))~~

All of the following apply to all outdoor burning unless specified otherwise in Article VI, Section 6.01 ~~((of this Regulation))~~ or pursuant to a written permit:

~~(1)~~ (1) Prohibited Materials. ~~((E))~~ [WAC 173-425-050(1)] ~~((G))~~

It is unlawful to burn prohibited materials. Prohibited materials include all of the following: garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper (other than what is necessary to start a fire), cardboard, treated or processed wood (other than commercially manufactured fire logs), construction and demolition debris (any material resulting from the construction, renovation, or demolition of buildings, roads, or other man made structures), metal, or any substance (other than natural vegetation or firewood) that releases dense smoke or obnoxious odors when burned, or normally releases toxic emissions when burned. (RCW 70.94.6512(1) and Attorney General Opinion 1993 #17).

~~(2)~~ (2) Hauled Materials. ~~((E))~~ [WAC 173-425-050(2)] ~~((G))~~

It is unlawful for a fire to contain material that has been hauled from an area where outdoor burning of that material is prohibited.

~~(3)~~ (3) Curtailments. ~~((E))~~ [RCW 70.94.6512, RCW 70.94.-6516, WAC 173-425-030(2), WAC 173-425-030(7), WAC 173-425-050(3), WAC 173-425-060(4) & WAC 173-433-140] ~~((G))~~

~~(a)~~ (a) The person responsible for the fire must contact the permitting agency and/or any other designated source for information on the burning conditions for each day prior to igniting a fire.

~~(b)~~ (b) Outdoor burning is prohibited in specified geographical areas when one or more of the following occur:

~~(i)~~ (i) 1. The Washington State Department of Ecology (Ecology) has declared an air pollution episode.

~~(ii)~~ (ii) 2. Ecology or SRCAA has declared impaired air quality.

~~(iii)~~ (iii) 3. A fire protection authority ~~((E))~~ with jurisdiction has declared a fire danger burn ban, unless that authority grants an exception.

~~(c)~~ (c) The person responsible for outdoor burning must extinguish the fire when an air pollution episode, impaired air quality condition, or fire danger burn ban that applies to the burning is declared. In this regard:

~~(i)~~ (i) 1. Smoke visible from all types of outdoor burning, except residential land clearing burning, after a time period of three (3) hours has elapsed from the time an air pollution epi-

sode, impaired air quality condition, or fire danger burn ban is declared, will constitute prima facie evidence of unlawful outdoor burning.

(#)2. Smoke visible from residential land clearing burning after a time period of eight (8) hours has elapsed from the time an air pollution episode, impaired air quality condition, or fire danger burn ban is declared, will constitute prima facie evidence of unlawful outdoor burning.

(4)(-) Nuisance. ((f))[RCW 70.94.030(2) & WAC 173-425-050(4)](g)

A nuisance refers to an emission of smoke or any other air contaminant that unreasonably interferes with the enjoyment of life and property. In addition to applicable odor nuisance regulations in Article VI, Section 6.04 ((of this Regulation)), it shall be unlawful for any person to conduct outdoor burning which causes a smoke or particulate nuisance. With respect to smoke or particulate from outdoor burning, ((SRCAA)) the Agency may take enforcement action under ((this)) Section 6.01 if the Control Officer or authorized representative has documented all of the following:

(a)(-) Visible smoke observed with natural or artificial light (e.g. flashlight) crossing the property line of the person making a complaint or particulate deposition on the property of the person making a complaint;

(b)(-) An affidavit from a person making a complaint ((that)) which demonstrates that they have experienced air contaminant emissions in sufficient quantities, and of such characteristics and duration, so as to unreasonably interfere with their enjoyment of life and property; and

(c)(-) The source of the smoke or particulate.

(5)(-) Burning Detrimental to Others. ((f))[RCW 70.94.040, RCW 70.94.((650))6528(1), RCW 70.94.6516, and WAC 173-425-050(4)](g)

It is unlawful for any person to cause or allow outdoor burning that causes an emission of smoke or any other air contaminant that is detrimental to the health, safety, or welfare of any person, or that causes damage to property or business.

(6)(-) Containers. ((f))[WAC 173-425-050(5)](h)

(a)(-) Burn barrels are prohibited.

(b)(-) Containers must be constructed of concrete or masonry with a completely enclosed combustion chamber and equipped with a permanently attached spark arrester constructed of iron, heavy wire mesh, or other noncombustible material with openings no larger than one-half (0.5) inch.

(7)(-) Extinguishing a Fire. ((f))[WAC 173-425-050 (6) (a) & WAC 173-425-060(4)](h)

(a)(-) A person(s) capable of completely extinguishing the fire must attend it at all times.

(b)(-) Fire extinguishing equipment must be at the fire and ready to use (e.g., charged garden hose, dirt, sand, water bucket, shovel, fire extinguisher, etc.).

(c)(-) All fires must be completely extinguished when the fire will be left unattended or when the activity for which the fire was intended is done, whichever occurs first.

(d)(-) Any person(s) responsible for unlawful outdoor burning must immediately and completely extinguish the fire. If the person(s) responsible for unlawful outdoor burning are unable or unwilling to extinguish an unlawful fire, they

may be charged for fire suppression costs incurred by a fire protection agency.

(8)(-) Distances. ((f))[WAC 173-425-050 (6)(b) & WAC 173-425-060(4)](i)

(a)(-) All fires subject to Article VI, Section 6.01 ((of this Regulation)) must be at least fifty (50) feet away from any structure.

(b)(-) When material is burned on the ground, it must be placed on bare soil, green grass, or other similar area free of flammable materials for a distance adequate to prevent escape of the fire.

(9)(-) Landowner Permission. ((f))[WAC 173-425-050 (6)(c)](j)

Permission from a landowner, or owner's designated representative, must be obtained before outdoor burning on landowner's property.

(10)(-) Burn Hours. ((f))[WAC 173-425-060(4)](k)

All burning must take place during daylight hours only. Burning shall not commence prior to sunrise, and all debris burning must be completely extinguished at least one hour prior to sunset. Smoke visible from burning within one hour of sunset will constitute prima facie evidence of unlawful outdoor burning.

(11)(-) Number of Piles. ((f))[WAC 173-425-060 (5)(c) (x)](l)

Only one (1) pile at a time may be burned ((per)) on contiguous parcels of property under same ownership. ((and each)) The pile must be extinguished before lighting another.

(12)(-) Fuel Area. ((f))[WAC 173-425-060(4)](m)

The fuel area shall be no larger than three (3) feet in diameter by two (2) feet in height.

(13)(-) Written Permits.

(a)(-) A copy of the written permit must be kept at the permitted burn site during the permitted burn, and must be made available for review upon request of the permitting agency.

(b)(-) All conditions of a written permit issued by the permitting agency must be complied with.

(14)(-) Property Access. ((f))[RCW 70.94.200 & SRC AA Regulation I, Article II](n)

The Control Officer, or ((duly)) authorized representative, shall be allowed to access property at reasonable times to inspect fires specific to the control, recovery, or release of contaminants into the atmosphere in accordance with ((SRCAA Regulation I,)) Article II and RCW 70.94.200. For the purposes of outdoor burning, reasonable times include, but are not limited to, any of the following: when outdoor burning appears to be occurring, when the Control Officer or authorized representative is investigating air quality complaints filed with ((SRCAA)) the Agency, and/or there is reason to believe that air quality violations have occurred or may be occurring. No person shall obstruct, hamper, or interfere with any such inspection.

(15)(-) Areas Prohibited. ((f))[WAC 173-425-040](o)

Outdoor burning is prohibited in all of the following areas:

(a)(-) Within the Restricted Burn Area (also referred to as the No Burn Area), as defined by Resolution of the Board of Directors of SRCAA.

(b)(-) Within any Urban Growth Area (land, generally including and associated with an incorporated city, designated by a county for urban growth under RCW 36.70A.030), and with the exception of Fairchild Air Force Base, any area completely surrounded by any Urban Growth Area (e.g. "islands" of land within an Urban Growth Area).

(c)(-) Within any nonattainment area or former nonattainment area.

(d)(-) In any area where a reasonable alternative to burning exists for the area where burning is requested. For burning organic refuse, a reasonable alternative is considered one where there is a method for disposing of the organic refuse at a cost that is less than or equivalent to the median of all county tipping fees in the state for disposal of municipal solid waste. SRCAA shall determine the median of all county tipping fees in the state for disposal of municipal solid waste by obtaining the most recent solid waste tipping fees data available from Ecology (e.g. state profile map of Washington solid waste tipping fees available at <https://fortress.wa.gov/ecy/swicpublic>) or other relevant sources. Reasonable alternatives may include, but are not limited to, solid waste curbside pick-up, on-site residential composting or commercial composting operations, public or private chipping/grinding operations, public or private chipper rental service, public or private hauling services, energy recovery or incineration facility, public or private solid waste drop box, transfer station, or landfill.

(16)(-) Other Requirements.

All outdoor burning must comply with all other applicable local, state, and federal requirements.

(G)(-) Unlawful Outdoor Burning.

(1)(-) Failure of any person to comply with Chapter 70.94 RCW, Chapter 173-425 WAC, this Section, or permit conditions, shall be unlawful and may result in criminal or civil enforcement action taken, including penalties.

(2)(-) Unlawful burning may result in any outdoor burning permit being permanently rescinded. This applies to written permits, general permits (permits by rule), and electronic and verbal permits. Once a permit is rescinded, approval from (SRCAA) the Agency must be obtained to burn again. Applicable fees for a new permit must be paid pursuant to Article X, Section 10.13.

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

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

AMENDATORY SECTION

SECTION 6.02 VISIBLE EMISSIONS

(A)(-) Opacity Limit. It shall be unlawful for any person to cause or allow the emission of air contaminant from any emission point which equals or exceeds ((twenty percent)) 20% opacity for an aggregate of more than three (3) minutes in any one((-)hour period except:

(1)(-) When the emissions occur due to soot blowing/grate cleaning and the operator can demonstrate that the emissions will not equal or exceed ((twenty percent)) 20% opacity for more than fifteen (15) minutes in any eight (8) consecutive hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary to the operation of boiler facilities. As such, this practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and the ((Authority)) Agency shall be advised of the schedule.

(2)(-) When the presence of uncombined water is the only reason for the failure of an emission to meet the requirements of this section. The burden of proof to establish the quantity of uncombined water in the emission shall lie with the owner or operator who is seeking to bring the emission from his equipment or process within the requirements of SRCAA Regulation I, Article VI, Section 6.02(A).

(3)(-) When otherwise specifically permitted by Article VIII, Section 8.05 ((of this Regulation)) (i.e. solid fuel burning devices).

(B)(-) Opacity Measurement. The opacity of an air contaminant shall be measured at the point of its emission, except when the point of emission cannot be readily observed, it may be measured at an observable point on the plume nearest the point of emission.

(C)(-) Test Method and Procedures. Visible emissions shall be determined by using Ecology Test Method 9A.

(D)(-) Emission Point. The emission limits of this section shall apply to each emission point regardless of the number of emissions units connected to a common stack.

AMENDATORY SECTION

SECTION 6.03 INCINERATOR BURNING AND INCINERATION HOURS

(A)(-) Applicability. The ((Authority)) Agency((implements and enforces)) adopts by reference WAC 173-400-050, in Spokane County, except for 050 (4)(c)(ix) and 050 (5)(c)(xi). ((in addition to Parts)) In addition, the provisions of SRCAA Regulation I, Article VI, Section 6.03 (B through E) apply. ((of this Section. The more stringent requirement in WAC 173-400-050 or Section 6.03 supersedes the lesser:))

(B)(-) Incinerators. It shall be unlawful for any person to burn any combustible refuse in any incinerator within the jurisdiction of this ((Authority)) Agency except in an approved multiple-chambered incinerator or in equipment found by the Control Officer in advance of such use to be equally effective for the purpose of air pollution control. The Control Officer may require the installation of additional control apparatus on an incinerator of approved design, if he finds that it is not effectively controlling air pollution emissions or is the cause of legitimate complaints.

(C)(-) Operation During Daylight Hours. It shall be unlawful for any person to cause or allow the operation of an incinerator at any time other than daylight hours, except with the approval of the Control Officer.

(D)(-) Exception to Daylight Hours. Approval of the Control Officer for the operation of an incinerator at other than daylight hours may be granted upon the submission of a written request stating:

(1)(-) Full name and address of the applicant.

(2)(-) Location of the incinerator.

(3)(-) A description of the incinerator and its control equipment.

(4)(-) Good cause for issuance of such approval.

(5)(-) The hours, other than daylight hours, during which the applicant seeks to operate the equipment.

(6)(-) The length of time for which the exception is sought.

~~(E-)~~(E) Prohibited. No one shall install or operate an "Air Curtain Incinerator" or "Wigwam Burner" within the ~~(Authority's)~~ Agency's jurisdiction.

AMENDATORY SECTION

SECTION 6.04 EMISSION OF AIR CONTAMINANT: DETRIMENT TO PERSON OR PROPERTY

~~(A-)~~(A) Definitions. ~~(-)~~ All definitions in SRCAA Regulation I, Article ~~(+)~~ I, Section 1.04 apply to Article VI, Section 6.04 ~~(this Section)~~, unless otherwise defined herein.

~~(B-)~~(B) Applicability. The Agency ~~(implements and enforces)~~ adopts by reference WAC 173-400-040 in Spokane County, except WAC 173-400-040(6), which is replaced by 6.04(C) and WAC 173-400-040(8), which is replaced by Section 6.07. In ~~(in)~~ addition to WAC 173-400-040, the provisions of Section 6.04 apply. The provisions of RCW 70.94.640 are herein incorporated by reference.

~~(C-)~~(C) Emissions Detrimental to Persons or Property. It shall be unlawful for any person to cause or allow the emission of any air contaminant in sufficient quantities and of such characteristics and duration as is, or is likely to be:

(1)(-) Injurious to the health or safety of human, animal, or plant life;

(2)(-) Injurious or cause damage to property; or

(3)(-) Which unreasonably interferes with enjoyment of life and property.

~~(D-)~~(D) Odors. With respect to odor, the Agency may take enforcement action, pursuant to ~~(c)~~ Chapter 70.94 RCW, under this section if the Control Officer or ~~(a duty)~~ authorized representative has documented all of the following:

(1)(-) The detection by the Control Officer or ~~(a duty)~~ authorized representative of an odor at a ~~(+)~~ Level 2 or greater, according to the following odor scale:

(a) Level 0 - no odor detected,

(b) Level 1 - odor barely detected,

(c) Level 2 - odor is distinct and definite, any unpleasant characteristics recognizable,

(d) Level 3 - odor is objectionable enough or strong enough to cause attempts at avoidance, and

(e) Level 4 - odor is so strong that a person does not want to remain present.

(2)(-) An affidavit from a person making a complaint that demonstrates that they have experienced air contaminant emissions in sufficient quantities and of such characteristics and duration so as to unreasonably interfere with their enjoyment of life and property (the affidavit should describe or identify, to the extent possible, the frequency, intensity, duration, offensiveness, and location of the odor experienced by the complainant); and

(3)(-) The source of the odor.

~~(E-)~~(E) Odor Violation. With respect to odor, the Agency will determine whether or not a violation of Article VI, Section ~~(subsection)~~ 6.04(C) has occurred based on its review of the information documented under ~~(subsection)~~ Section 6.04(D), as well as any other relevant information obtained during the investigation.

~~(F-)~~(F) Enforcement Action. When determining whether to take formal enforcement action authorized in ~~(subsection)~~ Section 6.04(D) and (E) above, the Agency may consider written evidence provided by the person causing the odors which demonstrates to the satisfaction of the Agency that all controls and operating practices to prevent or minimize odors to the greatest degree practicable are being employed. If the Agency determines that all such efforts are being employed by the person causing the odors and that no additional control measures or alternate operating practices are appropriate, the Agency may decline to pursue formal enforcement action.

~~(G-)~~(G) Documentation. The Agency will document all the criteria used in making its determination in ~~(subsection)~~ Section 6.04(F) above as to whether or not the person causing the odors is employing controls and operating practices to prevent or minimize odors to the greatest degree practicable. Said documentation, except information that meets the criteria of confidential in accordance with RCW 70.94.205, will be made available to any person making a public records request to the Agency for said documentation, including, but not limited to complaining parties.

~~(H-)~~(H) Cause of Action or Legal Remedy. Nothing in ~~(this)~~ Section 6.04 shall be construed to impair any cause of action or legal remedy of any person, or the public, for injury or damages arising from the emission of any air contaminant in such place, manner or concentration as to constitute air pollution or a common law nuisance.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION

SECTION 6.05 PARTICULATE MATTER AND PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE

~~(A-)~~(A) Deposition. It shall be unlawful for any person to cause or allow the discharge of particulates in sufficient numbers to unreasonably cause annoyance to any other person when deposited upon the real property of others.

~~(B-)~~(B) Materials Handling, Transportation, Storage. It shall be unlawful for any person to cause or permit particulate matter to be handled, transported or stored without taking reasonable precautions to prevent the particulate matter from becoming airborne.

~~(C-)~~(C) Construction and Demolition of Buildings and Roads. It shall be unlawful for any person to cause or permit a building or its appurtenances or a road to be constructed, altered, repaired, or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne. Reasonable precautions to prevent particulate matter from becoming airborne must also be used on roads used as detour routes around roads, or section of road that are being constructed, altered, repaired, demolished, or closed for any purpose.

~~((D-))~~(D) Deposition on Paved Roadways. It shall be unlawful for any person, including the owner or person in control of real property to cause or allow particulate matter to be deposited upon a paved roadway open to the public without taking every reasonable precaution to minimize deposition. Reasonable precautions shall include, but are not limited to, the removal of particulate matter from equipment prior to movement on paved streets and the prompt removal of any particulate matter deposited on paved streets.

~~((E-))~~(E) Fugitive Dust. It shall be unlawful for any person to cause or allow visible emissions of fugitive dust unless reasonable precautions are employed to minimize the emissions. Reasonable precautions may include, but are not limited to, one or more of the following:

(1)(-) The use of control equipment, enclosures, and wet (or chemical) suppression techniques, and curtailment during high winds;

(2)(-) Surfacing roadways and parking areas with asphalt, concrete, or gravel;

(3)(-) Treating temporary, low traffic areas (e.g., construction sites) with water or chemical stabilizers, reducing vehicle speeds, constructing pavement or rip rap exit aprons, and cleaning vehicle undercarriages and tires before they exit to prevent the track-out of mud or dirt onto paved public roadways; or

(4)(-) Covering or wetting truck loads or allowing adequate freeboard to prevent the escape of dust-bearing materials.

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

AMENDATORY SECTION

SECTION 6.06 EMISSION OF AIR CONTAMINANTS OR WATER VAPOR, DETRIMENT TO PERSONS OR PROPERTY ~~((6))~~ **SEE WAC 173-400-~~(040(5))~~040(6)**

~~((The Authority implements and enforces WAC 173-400-040(5)-))~~ Repealed ###/###/##, Res. ##-##

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

AMENDATORY SECTION

SECTION 6.07 EMISSION OF AIR CONTAMINANT CONCEALMENT AND MASKING RESTRICTED ~~((SEE WAC 173-400-040(7)))~~

~~((The Authority implements and enforces WAC 173-400-040(7)-))~~ Conceal or Mask. No person shall cause or allow the installation of use of any means which conceals or masks an emission of an air contaminant which would otherwise violate any provisions of SRCAA Regulation I.

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

AMENDATORY SECTION

SECTION 6.08 REPORT OF BREAKDOWN

~~((A-))~~(A) Reporting. The owner or operator of a source which emits pollutant(s) exceeding any limit established by Ecology or the ~~((Authority))~~ Agency in any order(s), rule(s) or regulation(s) that apply to the facility as a direct result of unavoidable upset conditions or unavoidable and unforesee-

able breakdown of equipment or control apparatus may be exempt from penalties if:

(1)(-) The upset or breakdown is reported to the ~~((Authority))~~ Agency on the next regular working day.

(2)(-) The owner or operator shall, upon request of the Control Officer, submit a report giving:

(a)(-) The causes.

(b)(-) The steps to be taken to repair the breakdown, and

(c)(-) A time schedule for the completion of the repairs.

(3)(-) The owner or operator can prove to the Control Officer that the excess emissions due to breakdown were unavoidable by adequately demonstrating that:

(a)(-) The event was not caused by poor or inadequate design, operation, maintenance, or any other reasonably preventable condition;

(b)(-) The event was not of a recurring pattern indicative of inadequate design, operation, or maintenance; and

(c)(-) The operator took immediate and appropriate corrective action in a manner consistent with good air pollution control practice for minimizing emissions during the event, taking into account the total emissions impact of the corrective action, including slowing or shutting down the emissions unit as necessary to minimize emissions, when the operator knew or should have known that an emission standard or permit condition was being exceeded.

~~((B-))~~(B) Agency Review. ~~((The Control Officer))~~ Upon receipt of a report ~~((Subsection A.2-))~~ [SRCAA Regulation I, Article VI, Section 6.08 (A)(2)] from the owner and/or operator describing a breakdown, the Control Officer may:

(1)(-) Allow continued exempt operation, but only for a limited time period, after which the owner or operator will be required to comply with ~~((this Regulation))~~ Section 6.08, or the applicable permit condition, or be subject to the penalties in Article II, Section 2.11. An exemption granted under ~~((this))~~ Section 6.08, may be withdrawn if the exempt operation becomes a cause of complaints.

(2)(-) Require that the facility curtail or cease operations of the equipment, which emits pollutants exceeding any of the limits established by ~~((this Regulation))~~ Section 6.08 or in any permit condition, until repairs are completed, if the Control Officer determines that the quantity of pollutants, or the nature of the pollutants, could endanger human health and safety, cause injury to plant and/or animal life, or cause damage to property.

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

AMENDATORY SECTION

SECTION 6.09 EXCEPTIONS TO THIS ARTICLE ~~((RESERVED))~~ (Repealed 3/4/04, Res. 04-01)

AMENDATORY SECTION

SECTION 6.11 AGRICULTURAL BURNING

(A)Adoption by Reference. In addition to ~~((this))~~ SRCAA Regulation I, Article VI, Section 6.11, ~~((of the Regulation, the Authority-))~~ the Agency ~~((implements and enforces))~~ adopts by reference Chapter 173-430 WAC. The more stringent requirement in Chapter 173-430 or Section 6.11 supersedes the lesser.

~~(A)~~(B) Purpose. The primary purpose of ~~(this)~~ Section 6.11 is to establish specific requirements for agricultural burning in Spokane County, consistent with Chapter 173-430 WAC.

~~(B)~~(C) Applicability. ~~(This)~~ Section 6.11 applies to agricultural burning in all areas of Spokane County unless specifically exempted. ~~(This)~~ Section 6.11 does not apply to Silvicultural Burning (see Chapter 332-24 WAC) or to Outdoor Burning (see Chapter 173-425 WAC).

~~(C)~~(D) Statement of Authority. The Spokane Regional Clean Air Agency is empowered, pursuant to Chapter 70.94 RCW, to administer the agricultural burning program in Spokane County. Included is the authority to:

- (1)~~(-)~~ Issue and deny burning permits;
- (2)~~(-)~~ Establish conditions on burning permits to ~~(insure)~~ ensure that the public interest in air, water, and land pollution, and safety to life and property is fully considered;
- (3)~~(-)~~ Determine if a request to burn is consistent with best management practices, pursuant to WAC 173-430-050; or qualifies for a waiver, pursuant to WAC 173-430-045;
- (4)~~(-)~~ Delegate local administration of permit and enforcement programs to certain political subdivisions;
- (5)~~(-)~~ Declare burn days and no-burn days, based on meteorological, geographical, population, air quality, and other pertinent criteria; and
- (6)~~(-)~~ Restrict the hours of burning, as necessary to protect air quality.

~~(D)~~(E) Definitions. Unless a different meaning is clearly required by context, words and phrases used in ~~(this)~~ Section 6.11 shall have the following meaning:

(1)~~(-)~~ *Agricultural Burning* means burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation and/or crop rotation, necessary to destroy weeds or crop residue along farm fence rows, irrigation ditches, or farm drainage ditches, or where identified as a best management practice by the agricultural burning practices and research task force established in RCW 70.94.~~((650))~~6528 or other authoritative source on agricultural practices.

(2)~~(-)~~ *Authority* means the Spokane Regional Clean Air Agency ~~(SRCAA or Agency)~~.

(3)~~(-)~~ *Episode* means a period when a forecast, alert, warning, or emergency air pollution stage is declared, as provided in Chapter 173-435 WAC.

(4)~~(-)~~ *Extreme Conditions* means conditions, usually associated with a natural disaster, that prevent the delivery and placement of mechanical residue management equipment on the field, and applies only to the growing of field and turf grasses for seed, for which a waiver is requested.

(5)~~(-)~~ *Impaired Air Quality*, for purposes of agricultural burning, means a condition declared by the ~~(Authority)~~ Agency when meteorological conditions are conducive to an accumulation of air contaminants, concurrent with at least one of the following criteria:

(a)~~(-)~~ Particulates that are ten (10) microns or smaller in diameter (PM₁₀) are measured at any location inside Spokane County at or above an ambient level of sixty (60) micrograms per cubic meter of air, measured on a twenty-four (24)~~(-)~~ hour average, by a method which has been determined, by Ecology or the ~~(Authority)~~ Agency, to have a reliable cor-

relation to the federal reference method, 40 CFR ~~((Title 40))~~ Part 50 Appendix J, or equivalent.

(b)~~(-)~~ Carbon monoxide is measured at any location inside Spokane County at or above an ambient level of eight (8) parts of contaminant per million parts of air by volume (ppm), measured on an eight (8)~~(-)~~ hour average by a method which has been determined, by Ecology or the ~~(Authority)~~ Agency, to have a reliable correlation to the federal reference method, 40 CFR ~~((Title 40))~~ Part 50 Appendix C, or equivalent.

(c)~~(-)~~ Particulates that are two and one-half (2.5) microns or smaller in diameter (PM_{2.5}) are measured at any location inside Spokane County at or above an ambient level of fifteen (15) micrograms per cubic meter of air, measured on a twenty-four (24)~~(-)~~ hour average, by a method which has been determined, by Ecology or the ~~(Authority)~~ Agency, to have a reliable correlation to the federal reference method, 40 CFR ~~((Title 40))~~ Part 50 Appendix L, or equivalent.

(d)~~(-)~~ Air contaminant levels reach or exceed other limits, established by Ecology pursuant to RCW 70.94.331.

(6)~~(-)~~ *Nuisance* means an emission of smoke or other emissions from agricultural burning that unreasonably interferes with the use and enjoyment of property or public areas.

(7)~~(-)~~ *Permitting Authority* means the Spokane Regional Clean Air Agency ~~((Authority))~~ Agency, or one or more of the following entities, whenever the ~~(Authority)~~ Agency has delegated administration of the permitting program, pursuant to RCW 70.94.~~((654))~~ 6530, to one or more of the referenced entities, provided such delegation of authority has not been withdrawn: Spokane County, the Spokane County Conservation District, or any fire protection agency within Spokane County.

(8)~~(-)~~ *Pest* means weeds, disease, or insects, infesting agricultural lands, crops, or residue.

(9)~~(-)~~ *Prohibited Materials* means garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper (other than what is necessary to start a fire), cardboard, treated wood, construction debris, demolition debris, metal or any substance (other than natural vegetation) that releases toxic emissions, dense smoke or obnoxious odors, when burned.

(10)~~(-)~~ *Responsible Person* means any person who has applied for and received a permit for agricultural burning, or any person allowing, igniting or attending to agricultural burning, or any person who owns or controls property on which agricultural burning occurs.

~~(E)~~(F) Requirements. No person shall practice or permit the practice of Agricultural Burning, other than incidental agricultural burning pursuant to RCW 70.94.~~((745(7)))~~ 6524 (7), unless the applicant demonstrates to the satisfaction of the ~~(Authority)~~ Agency or permitting authority that burning, as requested:

(1)~~(-)~~ Is reasonably necessary to successfully carry out the enterprise in which the applicant is engaged; or

(2)~~(-)~~ Constitutes a best management practice and no practical alternative is reasonably available.

~~(F)~~(G) Prohibitions. No person shall practice or permit the practice of agricultural burning in any of the following circumstances:

(1)(-) Where there is a practice, program, technique, or device, that Ecology has certified as a practical alternative to burning.

(2)(-) When the materials to be burned include any prohibited materials.

(3)(-) During an episode, as declared by Ecology, or during Impaired Air Quality, as declared by Ecology or the ((Authority)) Agency for a defined geographical area.

(4)(-) Where burning causes a nuisance or when the ((Authority)) Agency or permitting authority determines that the creation of a nuisance would likely result from burning.

(5)(-) Without a written permit, issued by the permitting authority, except for incidental agricultural burning, as provided in RCW 70.94.((745(7)))6524(7).

(6)(-) When the materials to be burned include any material other than natural vegetation generated on the property, which is the burning site, or was transported to the burning site by wind or water.

(7)(-) In the case of growing of field or turf grasses for seed, unless the request to burn qualifies for a waiver for slope or extreme conditions pursuant to WAC 173-430-045(4).

(8)(-) When a no-burn day is declared by the ((Authority)) Agency or the permitting authority.

(G-)(H) General Conditions. Considering population density and local conditions affecting air quality, the ((Authority)) Agency or permitting authority shall establish conditions for all permits to minimize air pollution as much as practical. Such conditions may be general (applying to all permits) or specific (applying to individual permits). Conditions may address permissible hours of burning, maximum daily burn acreage or volume of material to be burned, requirements for good combustion practice, burning under specified weather conditions, pre and post-burn reporting, and other criteria, determined by the permitting authority, as necessary to minimize air pollution. Any person who practices or permits the practice of agricultural burning shall, in addition to any specific permit conditions imposed, comply with the general agricultural burning permit conditions and criteria in WAC 173-430-070 and all of the following conditions:

(1)(-) Whenever an episode or Impaired Air Quality is declared, or other meteorological condition occurs that the permitting authority determines is likely to contribute to a nuisance, all fires shall be extinguished by withholding new fuel or ceasing further ignition, as appropriate to allow the fire to burn down in the most expeditious manner. In no case shall a fire be allowed to burn longer than three (3) hours after declaration of an episode or Impaired Air Quality, or determination of the specific meteorological condition.

(2)(-) Until extinguished, the fire shall be attended by a person who is responsible for the same, capable of extinguishing the fire, and has the permit or a copy of the permit in his or her immediate possession.

(3)(-) Burning shall occur only during daylight hours, or a more restrictive period as determined by the ((Authority)) Agency or the permitting authority.

(4)(-) Permission from the landowner, or the landowner's designated representative, must be obtained before starting the fire.

(5)(-) The fire district ((of)) having jurisdiction shall be notified by the responsible person, prior to igniting a fire.

(6)(-) If it becomes apparent at any time to the ((Authority)) Agency or permitting authority that limitations need to be imposed to reduce smoke, prevent air pollution and/or protect property and the health, safety and comfort of persons from the effects of burning, the ((Authority)) Agency or permitting authority shall notify the permittee or responsible person and any limitation so imposed shall become a condition under which the permit is issued.

(7)(-) Follow the smoke management guidelines of the permitting authority.

(H-)(I) Administrative ((Requirements)).

(1)(-) All applicants for agricultural burning permits must submit their requests to burn, on forms or in a format provided by the permitting authority.

(2)(-) The permitting authority may require additional information from the applicant, as necessary to determine if agricultural burning is reasonably necessary to carry out the enterprise, to determine how best to minimize air pollution, and as necessary to compile information for the annual program summary ((of)) [Section 6.11 (K)(10)]((of)).

(3)(-) The permitting authority may deny an application or revoke a previously issued permit if it is determined by the permitting authority that the application contained inaccurate information, or failed to contain pertinent information, which information is deemed by the permitting authority to be significant enough to have a bearing on the permitting authority's decision to grant a permit.

(4)(-) All applicants for agricultural burning permits shall pay a fee at the time of application, according to the ((schedule of fees)) Consolidated Fee Schedule, established by resolution of the permitting authority. When the permitting authority is the Spokane Regional Clean Air Agency, the fee shall be according to the schedule in Regulation I, Article X.

(5)(-) No permit for agricultural burning shall be granted on the basis of a previous permit history.

(6)(-) The permitting authority may waive or reduce the sixty (60) and thirty (30)(-) day advance requirements for submitting and completing a waiver request, made pursuant to WAC 173-430-045(5), if the permitting authority determines that an alternate advance period will suffice for evaluating the request.

(F-)(J) Responsibilities of Farmers. In order to make the required showing, referenced in Section 6.11(F)(-E-), a farmer, as defined in WAC 173-430-030(7), is responsible for providing the following to the permitting authority, if applicable:

(1)(-) Advance notice of the potential need to burn, including documentation of pest problems, which if possible, shall be given prior to crop maturity.

(2)(-) For pest management burning requests, a plan establishing how a recurring pest problem will be addressed through non-burning management practices by the following year, if possible, but by ((or by)) no later than three (3) years.

(3)(-) An evaluation of alternatives to burning, including those successfully and customarily used by other farmers in similar circumstances, with particular attention to alternatives customarily used in Spokane County, which evaluation

shall include an explanation as to why the alternatives are unreasonable and burning is necessary.

(4)(-) A showing as to how burning will meet the applicable crop-specific or general Best Management Practices, established pursuant to RCW 70.94.~~((650(4)))6528.~~

(5)(-) For residue management burn requests, a showing that the residue level meets the permitting authority's criteria for consideration of a residue management burn.

(6)(-) For residue management burn requests, a showing that non-burning alternatives would limit attaining the desired level of water infiltration/retention, soil erodibility, seed/soil contact, seeding establishment or other desirable agronomic qualities.

(7)(-) Field access to representatives of the permitting authority.

(~~7~~)(K) Responsibilities of Permitting Authorities. Permitting authorities are responsible for performing the following activities:

(1)(-) Evaluation of individual permit applications to determine whether the applicant has made the required showing, referenced in Section 6.11(~~F~~)(-~~E~~)).

(2)(-) Consultation with a trained agronomist on individual permit applications, as necessary, to evaluate the need to burn and non-burning alternatives.

(3)(-) Field inspection, as necessary to verify the following:

(a)(-) Accuracy of information in permit and waiver applications,

(b)(-) Compliance with permit conditions and applicable laws and regulations, and

(c)(-) Acreage and materials burned.

(4)(-) Taking final action on permit applications within seven (~~7~~) days of the date the application is deemed complete.

(5)(-) Incorporation of appropriate permit conditions, both general and specific, as referenced in Section 6.11(~~H~~)(-~~G~~)) in order to achieve the following:

(a)(-) Minimizing air pollution and emissions of air pollutants, and

(b)(-) (~~H~~) Ensuring that the public interest in air, water, and land pollution, and safety to life and property has been fully considered, in accordance with RCW 70.94.~~((650(4))~~(~~e~~))6528.

(6)(-) Enforcement and compliance efforts, with the goal of assuring compliance with all applicable laws, regulations, and permit conditions, and ensuring that timely and appropriate enforcement actions are commenced, when violations are discovered.

(7)(-) Complaint logging and appropriate level of response.

(8)(-) Collection of fees.

(9)(-) Declaration of burn days and no-burn days, taking into consideration, at a minimum, the following criteria:

(a)(-) Local air quality and meteorological conditions;

(b)(-) Time of year when agricultural burning is expected to occur;

(c)(-) Acreage/volume of material expected to be burned per day and by geographical location;

(d)(-) Proximity of burn locations to roads, homes, population centers, and public areas;

(e)(-) Public interest and safety; and

(f)(-) Risk of escape of fire onto adjacent lands, during periods of high fire danger.

(10)(-) Development of smoke management guidelines, that include procedures to minimize the occurrence of nuisance, and to facilitate making burn/no burn decisions.

(11)(-) Dissemination of burn decisions, as necessary to inform responsible persons and the public.

(12)(-) Compilation of an annual program summary, which at a minimum, includes the following:

(a)(-) Permits and acres approved for burning;

(b)(-) Permit/waiver requests and acres denied;

(c)(-) Number and dates of complaints received; and

(d)(-) Number of documented violations.

(~~K~~)(L) Compliance. The responsible person is expected to comply with all applicable laws and regulations. Compliance with Section 6.11 does not (~~insure~~) ensure that agricultural burning complies with other applicable laws and regulations implemented by any other authority or entity.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

AMENDATORY SECTION

SECTION 6.12 RESERVED (3/4/04, Res. 04-01)

AMENDATORY SECTION

SECTION 6.13 GENERAL SURFACE COATING

(~~A~~)(A) Purpose. SRCAA Regulation I, Article VI, (~~This~~) Section 6.13 establishes controls on surface coating operations in Spokane County in order to:

(1)(-) Reduce particulate emissions from coating overspray;

(2)(-) Reduce public exposure to Toxic Air Pollutants as listed in Chapter 173-460 WAC;

(3)(-) Reduce emissions of precursors to the formation of tropospheric ozone and other photochemical oxidants; and

(4)(-) Encourage pollution prevention.

(~~B~~)(B) Applicability. (~~This~~) Section 6.13 applies to all surface preparation, surface coating, cleanup, and disposal associated with general surface coating in Spokane County, unless specifically exempted.

(~~C~~)(C) Definitions. Unless a different meaning is clearly required by context, words and phrases used in (~~this~~) Section 6.13 shall have the following meaning:

(1)(-) *Airless Spray* means a spraying system that uses hydraulic atomization instead of air atomization. The coating is supplied to the gun under high fluid pressure between 1,000 and 3,000 psig and the coating is forced through a small orifice.

(2)(-) *Air-Assisted Airless Spray* means a spraying system that combines air and airless features. An airless type fluid tip atomizes the paint and shapes the fan pattern at fluid pressures between 300 and 1,000 psig. Lower pressure air from 10 to 30 psig combines at the spray cap to adjust the fan shape to eliminate heavy edges (tails).

(3)(-) *Automated* means the technique, method, or system of operating or controlling a process by mechanical, elec-

trical, hydraulic, or electronic means independent of human intervention.

(4)(-) *Brush Coat Application* means manual application of coatings by use of a paint brush.

(5)(-) *Coating* means a material or formulation of materials that is applied to or impregnated into a surface in order to beautify, protect, enhance the function, or otherwise cover the surface.

(6)(-) *Container* means the individual receptacle that holds a coating or coating component for storage and distribution.

(7)(-) *Dip Coat Application* means application of coatings in which the surface to be coated is immersed in a solution (or dispersion) containing the coating material and withdrawn.

(8)(-) *Electrostatic Application* means application of coatings where an electrostatic potential is created between the part to be coated and the paint particles.

(9)(-) *Exempt Solvent* means a solvent, or solvent component, (~~which~~) that is not a volatile organic compound (VOC).

(10)(-) *Flow Coat Application* means application of coatings by flowing the coating over the surface to be coated and draining the excess coating to a collection system.

(11)(-) *High Volume, Low Pressure (HVLP) or Low Volume, Low Pressure (LVLP) coating system* means equipment used to apply coatings by means of a spray gun which operates between 0.1 and 10.0 ~~psig~~ (~~pounds per square inch gauge~~) air pressure measured at the nozzle and that exhibits a minimum transfer efficiency of 65%, as applied.

(12)(-) *Light Duty Vehicle* means a passenger car, truck, van, or other motor vehicle which has a gross vehicle weight of eight thousand-five hundred (8,500) pounds or less, or components thereof.

(13)(-) *Multi-Coat System* means a coating system where more than one product or coat is sequentially applied to the same surface and generally consists of a pigmented base coat, one or more semi-transparent mid-coats, and a transparent clear coat. The VOC content for a multi-coat system shall be calculated as follows:

$$VOC_{TM} = \frac{VOC_{BC} + VOC_{X1} + VOC_{X2} + \dots + VOC_{Xn} + 2VOC_{CC}}{n+3}$$

where:

VOC_{TM} is the average sum of the VOC content, as applied to the surface, in a multi-coat system; and

VOC_{BC} is the VOC content, as applied to the surface, of the base coat; and

VOC_X is the VOC content, as applied to the surface, of each sequentially applied mid-coat; and

VOC_{CC} is the VOC content, as applied to the surface, of the clear coat (Two coats are applied); and

n is the total number of coats applied to the primer coat(s) surface.

(14)(-) *Pre-packaged Aerosol Can Application* means application of coatings from cans which are sold by the coating supplier as non-reusable, hand-held pressurized contain-

ers. The coating is expelled as a finely divided spray when a valve on the container is depressed.

(15)(-) *Primer* means any coating that is applied to a surface to enhance corrosion resistance, protection from the environment, functional fluid resistance, and adhesion of subsequently applied coatings.

(16)(-) *Reducer* means any solvent added to a coating which has the effect of reducing the viscosity of the coating or shortening the drying time.

(17)(-) *Refinishing* means reapplying coating to a surface to repair, restore, or alter the finish.

(18)(-) *Roll Coat Application* means manual application of coatings by the use of a paint roller.

(19)(-) *Solvent Consumption* means the volume of solvent purchased or otherwise procured, less the volume recycled or disposed. In the absence of records which document the transfer of solvent to an authorized recycler or waste hauler, solvent consumption means the volume of solvent purchased or otherwise procured.

(20)(-) *Standard ((e))Engineering ((p))Practices* means that accepted, peer reviewed sets of criteria are used in designing equipment (i.e. Uniform Building, Electrical, and Fire Codes, recommendations of the American Conference of Governmental Industrial Hygienists, guidelines of the Department of Labor and Industry, etc.).

(21)(-) *Surface Coating* means the application of coating to a surface.

(22)(-) *VOC Content* means pounds of VOC per gallon of coating (Lb/Gal) or grams of VOC per liter of coating (G/L), minus water and exempt solvents. The VOC content is calculated as follows:

$$VOC_{CT} = \frac{W_V}{V_M - V_W - V_{ES}}$$

where:

VOC_{CT} is the VOC content of the coating, as applied to the surface; and

W_V is the weight of VOC per unit volume of coating, as applied to the surface; and

V_M is the unit volume of coating, as applied to the surface; and

V_W is the volume of water per unit volume of coating, as applied to the surface; and

V_{ES} is the volume of exempt solvents per unit volume of coating, as applied to the surface.

(23)(-) *Wash Solvent* means any solution, solvent, suspension, compound, or other material, excluding water, (~~that~~) which is used to clean spray equipment, spray equipment lines, containers, and any other equipment associated with the application of coatings.

(24)(-) *Wipe-Down Agent* means any solution, solvent, suspension, compound, or other material that is applied to a surface exclusively for cleaning the surface or preparing the surface for coating.

~~((D))~~ **(D)** Prohibitions on ~~((e))~~ **(E)** Emissions.

(1)(-) No person shall cause or allow the application of any coating which contains greater than 0.1% by weight of one or more compounds of lead or hexavalent chromium.

(2)(-) Light duty vehicle refinishing - prohibitions on VOC content. Except as provided in Section 6.13(F)(-), no person shall cause or allow the application of any coating or other agent to any light duty vehicle or light duty vehicle component, with a VOC content in excess of the limits listed in 40 CFR 59, Subpart B, Table 1 - EPA National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings.

(E)(E) Requirements. All persons subject to the requirements of Section 6.13 shall comply with all of the following, unless exempted under Section 6.13(F)(-).

(1)(-) Enclosure and Controls. Spray application shall be conducted in a booth or area which is vented to an operating particulate control system. The particulate control system, including filtration, ducting, and fan shall be installed and sized according to standard engineering practices. Acceptable filtration methods (may) include:

(a)(-) Filter banks supplied with filter media designed for spray booth applications.

(b)(-) Water baths where the inlet air flow to the water bath is submerged.

(c)(-) Water wall systems that form a continuous water curtain through which the particulate flow stream must pass.

(d)(-) Other filtration methods that have received the prior written approval of the Control Officer.

1. The control system shall be equipped with a fan which is capable of capturing all visible overspray. Emissions from the booth/area shall be vented to the atmosphere through a vertical stack. The top of the exhaust stack/vent shall be at least six (6) feet above the penetration point of the roof, or if the exhaust stack/vent exits horizontally out the side of the building, then the exhaust stack/vent shall vent vertically at least six (6) feet above the eave of the roof. A higher stack/vent may be required if the (Authority) Agency determines that it is necessary for compliance with Article VI, Section 6.04 (or 6.06 of this Regulation). There shall be no flow obstructions (elbows, tees, or stack caps) inside of, or at the top of, the stack that will impede upward vertical flow of the exhausted air.

2. It shall be the owner/operator's responsibility to comply with other applicable federal, state, and local regulations for the stack/vent.

(2)(-) Visible Emissions. Visible emissions from the stack shall not exceed 10% opacity averaged over any six (6) minute period, as determined by EPA Method 9.

(3)(-) Application Methods. Except as provided in Section 6.13(F)(-), no person shall cause or allow the application of any coating or other agent containing VOC unless the coating or agent is applied by one of the following methods:

(a)(-) High Volume, Low Pressure coating system;

(b)(-) Low Volume, Low Pressure coating system;

(c)(-) Wet or Dry electrostatic application;

(d)(-) Flow coat application;

(e)(-) Dip coat application;

(f)(-) Brush coat application;

(g)(-) Pre-packaged aerosol can application;

(h)(-) Roll coat application;

(i)(-) A spraying technique that when tested, using the methodology presented in ASTM Standard D 5327-92, or

when test documentation, provided to and approved by the (Authority) Agency, exhibits that the spraying technique has a transfer efficiency of at least 65%;

(j)(-) Alternate application methods that have received the written approval of the Control Officer. Such alternate methods may be used, provided that the owner or operator makes a written request to use an alternate method and the Control Officer grants approval. These methods include but are not limited to the following application methods and circumstances:

1.(+) Airless and Air-Assisted Airless Spray systems may be used under any of the following circumstances:

a.(+) when the volatile organic compound (VOC) emissions are determined by the Control Officer to be no more than VOC emissions that would be generated by a spray application with a transfer efficiency of 65%;

b.(+) when the spraying operation is automated;

c.(+) when spray painting structural steel members where the coating, as formulated by the coating manufacturer, does not require addition of reducers to spray, and is delivered under high pressure (greater than (>) 1,000 psig for airless, or greater than (>) 300 psig for air-assisted airless) to the application system; or

d.(+) where the Control Officer has determined that the coating cannot be feasibly applied with a method that has a minimum transfer efficiency of 65%.

(4)(-) Equipment Cleanup. Equipment cleanup and any other use of wash solvent shall be totally enclosed during washing, rinsing, and draining; or wash solvent, after making contact with the equipment being cleaned, shall be immediately drained to a closed sump which is an integral part of the cleaning system.

(5)(-) General Clean-up.

(a)(-) All unused or partially used containers of coatings, wipe-down agents, wash solvents, reducers, and waste materials containing VOC shall be closed, except when in use, when being filled or emptied.

(b)(-) Spills must be cleaned up upon discovery and the clean up materials and collected waste shall be stored in closed metal containers.

(c)(-) All disposable materials which contain VOCs associated with wipe-down or application of coatings and other agents shall be stored in closed metal containers for disposal.

(6)(-) Recordkeeping. All persons subject to Section 6.13 shall maintain the following records for the previous twenty-four (24) month period at the place of business where surface coating is performed:

(a)(-) The most current material safety data sheets (MSDS) or other data sheets which clearly indicate the VOC content of the product and of any multi-coat system.

(b)(-) Records of purchases and usage, including unused materials returned to the supplier.

1.(+) Light duty vehicle refinishing. Annual purchases (and) or usage of total primers, total top coats, total clear coats, and total gun cleaner. Usage shall be reported "as applied", i.e. after reducing and catalyzing, if applicable.

2.(+) Other surface coating facilities. Annual purchases (and) or usage of individual coatings, coating additives, wipe-down agents, wash solvents, reducers, (there) and

other materials containing volatile organic compounds or volatile toxic air pollutants.

(c)(-) Waste materials disposal records, including volumes of waste solvents and coatings transferred in sealed containers to authorized waste haulers.

(F)(E) Exceptions. Exceptions to Section 6.13 shall be made as follows:

(1)(-) Noncommercial exemption. Nothing in Section 6.13 shall apply to surface coating operations conducted solely for personal, noncommercial purposes if, on a facility-wide basis, less than five (5) gallons of surface coatings are applied per year.

(2)(-) Coating process exemptions. Nothing in Section 6.13 shall apply to the following coating processes:

(a)(-) The application of architectural coatings to stationary structures and their appurtenances, to mobile homes, to pavements, or to curbs;

(b)(-) Fiberglass resin application operations;

(c)(-) Gel coating operations;

(d)(-) The application of asphaltic or plastic liners. This includes undercoating, sound deadening coating, and spray on bed lining for trucks;

(e)(-) Spray plasma plating operations; or

(f)(-) Application of coatings to farming equipment.

(3)(-) Low usage exemption. Nothing in Sections 6.13 (E)(3 and 4) (~~(E.3 & 4)~~) shall apply to surface coating operations which, on a facility-wide basis, apply less than ten (10) gallons per year of surface coatings.

(4)(-) Exemption for large objects. Nothing in ((~~Subsection~~) Section 6.13 (E)(1) (~~(E.1)~~)) shall apply to the infrequent outdoor surface coating of large objects where the Control Officer determines that it is impractical to totally enclose the object inside a booth or vented area. The request for this exemption must be made in writing to the Control Officer and the approval must be in writing. Infrequent means outdoor spray surface coating that amounts to 10% or less of the total annual gallons of paint applied at the facility in the previous twelve (12) months. Annual records must be kept of the number of gallons of paint that are sprayed outdoors. In such case, a temporary enclosure (tarps) shall be maintained around the object during the surface coating operation, sufficient at all times to prevent overspray from remaining airborne beyond the property line of the facility.

(5)(-) Wash solvent exemption. Nothing in ((~~Subsection~~) Section 6.13 (E)(4) (~~(E.4)~~)) shall apply to:

(a)(-) ((~~†~~)) The use of wash solvents with composite vapor pressure of organic compounds less than 45 mm Hg at 20°C as determined by ASTM Method D-2306-81; or

(b)(-) ((~~w~~)) Wash solvent operations if total wash solvent consumption does not exceed ten (10) gallons per year.

(6)(-) Stack exemption. The stack/vent requirements in ((~~Subsection~~) Section 6.13 (E)(1) (~~(E.1)~~)) shall not apply to surface coating operations where the owner or operator can demonstrate to the satisfaction of the Control Officer that emissions of toxic air pollutants will not exceed the Acceptable Source Impact Levels as defined in WAC 173-460-150 & 160 and emissions will not create a nuisance.

(7)(-) Non-spray and aerosol can application exemption. Nothing in ((~~Subsection~~) Section 6.13 (E)(1) (~~(E.1)~~)) shall apply to the application of any coating or other agent

from pre-packaged aerosol cans, flow coat, dip coat, brush coat, or roll coat applications.

(8)(-) Low VOC content exemption. Nothing in ((~~Subsection~~) Section 6.13 (E)(3) (~~(E.3)~~)) shall apply to the application of coatings where the VOC content does not exceed 2.1 Lb/Gal or 250 G/L.

(9)(-) Lead or Hexavalent Chrome exemption. The prohibition in ((~~Subsection~~) Section 6.13 (D)(1) (~~(D.1)~~)) shall not apply to a surface coating operation where the control officer determines that no practical alternative coating is available.

(10)(-) Enclosure and/or particulate control exemption. The enclosure and/or particulate control requirements of ((~~Subsection~~) Section 6.13 (E)(1) (~~(E.1)~~)) shall not apply to a surface coating operation where the ((~~e~~) Control ((~~o~~) Officer determines that such requirements would be ineffective, or unreasonable in capturing or controlling particulate or volatile organic compounds emissions from the facility.

(11)(-) Inside exhaust exemption. If the Department of Labor & Industries or another agency of jurisdiction determines that the emissions from a surface coating operation to an inside work area are below the threshold where an exhaust system is required and the Fire Department or District of jurisdiction has no objection, then the Control Officer may grant an exemption to ((~~Subsection~~) Section 6.13 (E)(1) (~~(E.1)~~)).

((~~G~~)(G) Compliance with other laws and regulations. Compliance with Section 6.13 or qualifying for an exemption in Section 6.13(E) (~~(E)~~) does not necessarily mean that the surface coating operation complies with fire protection, waste disposal, or other federal, state, or local applicable laws or regulations.

((~~H~~ Compliance schedule. All persons subject to the requirements of Section 6.13 and not already in compliance shall be in full compliance with Section 6.13 by October 7, 1998, unless an extension is applied for by the owner or operator and is granted in writing by the Authority.))

AMENDATORY SECTION

SECTION 6.14 STANDARDS FOR CONTROL OF PARTICULATE MATTER ON PAVED SURFACES

((~~A~~)(A) Applicability. The provisions of SRCAA Regulation I, Article VI, Section 6.14 shall apply to any government agency of a state, county, city or municipal corporation that applies or contracts for application of sanding materials to or mechanically sweeps or vacuums or contracts for sweeping or vacuuming of paved surfaces within the PM₁₀ Nonattainment area, or within the PM₁₀ maintenance area after the nonattainment area is redesignated to attainment. ((~~This~~)) Section 6.14 shall also apply to all suppliers of sanding materials to be used by these affected entities.

((~~B~~)(B) Definitions.

(1)(-) *Affected Entity* is any governmental agency of a state, county, city or municipal corporation as described in ((~~Subsection~~) Section 6.14(A).

(2)(-) *Approved Laboratory* means a certified or approved facility capable of performing the specified tests in a competent, professional, and unbiased manner in accordance with ASTM testing procedures.

(3)(-) *The ((Authority)) Agency* is the Spokane Regional Clean Air Agency.

(4)(-) *Base Sanding Amount* is the average amount of sanding materials applied per lane mile by each affected entity within the PM₁₀ Nonattainment Area during the 1992 - 1993 season or another base season, as requested by an affected entity and approved by the ((Authority)) Agency.

(5)(-) *Durability Index* means the percent loss of weight as determined using ASTM "Standard Test Method for Resistance to Degradation of Small-Size Coarse Aggregate by Abrasion and Impact in the Los Angeles Machine", designated C131-89, or other approved ASTM procedure.

(6)(-) *Full Deployment* means that sanding materials have been applied to all priority roadways targeted for treatment during a snow/ice event.

(7)(-) *Percent Fines* means the percent material passing a #100 sieve as determined by the American Society for Testing Materials (ASTM) "Standard Method for Sieve Analysis of Fine and Coarse Aggregates", Designation C136-84a (1988) (American Highway and Transportation Officials designation T27-88), or other approved ASTM procedure.

(8)(-) *PM₁₀ Maintenance Area* means the same as the PM₁₀ Nonattainment area unless otherwise defined in an approved PM₁₀ Maintenance Plan.

(9)(-) *PM₁₀ Nonattainment Area* means the Spokane County PM₁₀ Nonattainment Area, defined in 40 CFR ((Title 40,)) Part 81, as designated on November 15, 1990.

(10)(-) *Priority Roadway* means any street, arterial, or highway, within the PM₁₀ Nonattainment Area, with more than fifteen-thousand (15,000) average daily traffic count, and any connecting entrance or exit ramp.

(11)(-) *Recycled Sanding Materials* means previously used sanding materials which have been collected from roadways or paved areas and are then re-used as is, after washing, or after blending with new sanding materials.

(12)(-) *Sanding Materials* means natural geologic materials, excluding salt and other de-icing chemicals, used to provide increased traction on roadways or paved areas.

(13)(-) *Season* means the period beginning, November 1, in one (1) calendar year and concluding on April 30, the next calendar year.

((C-))(C) Emission ((#))Reduction and ((e))Control ((p))Plans. Each affected entity shall submit to the ((Authority)) Agency an initial plan, including an implementation schedule describing the programs and methods to be used to reduce PM₁₀ emissions from paved surfaces. If the affected entity incorporated after the effective date of this regulation, that entity shall submit an initial plan within one hundred eighty (180) days of incorporation. In reviewing each plan, the ((Authority)) Agency shall allow consideration of mobility and transportation safety factors. In approving any initial plan, or plan revision the ((Authority)) Agency must make a finding, in consultation with the Washington State Department of Ecology, that the cumulative effect of the plans submitted by all affected entities will maintain at least a 70% reduction, from the 1992 - 1993 base season, in the twenty-four (24) hour PM₁₀ emissions from paved surfaces.

(1)(-) Each plan is subject to approval by the ((Authority)) Agency and shall address, at a minimum, all of the following:

- (a)(-) Base sanding amount;
- (b)(-) Percent sanding reduction goal;
- (c)(-) Sanding materials specifications to be employed;
- (d)(-) Criteria for application of sanding materials. Where and when sanding materials are applied;
- (e)(-) Identification of priority roadways;
- (f)(-) Locations, application rates, and circumstances for the use of chemical deicers and other sanding alternatives;
- (g)(-) Street sweeping frequency and technology to be employed;
- (h)(-) Factors for determining when and where to initiate street sweeping following a sanding event, with the goal of expeditious removal of sanding materials from priority roadways when safety and mobility requirements have been satisfied;

(i)(-) An implementation schedule giving the estimated dates of start and completion, if applicable, of each part of the plan; and

(j)(-) A schedule for removal of sanding materials from all surfaces to which they are applied.

(2)(-) The plans submitted shall be implemented by each affected entity upon approval of each plan.

(3)(-) Within forty-five (45) days of submittal of the reports required in ((Subsection F. of this)) Section 6.14(F), the ((Authority)) Agency shall determine if the plan commitments have been met and shall notify each affected entity that has failed to fully implement its plan.

(4)(-) If the ((Authority)) Agency, after consultation with the affected entities, the Washington Department of Ecology, and the United States Environmental Protection Agency, determines that the emission reduction and control plans do not provide for sufficient reduction in PM₁₀ emissions to achieve the emission reduction credit for paved road surfaces as contained in the State Implementation Plan, the ((Authority)) Agency may require any or all affected entities to modify their plans in order to achieve additional reductions.

(5)(-) Each affected entity shall review their approved plan within ninety (90) days of the effective date of the amendment to ((this regulation)) Section 6.14 and every five (5) years thereafter and within ninety (90) days of the ((Authority's)) Agency's determination made pursuant to ((Subsection C. 4.)) Section 6.14 (C)(4) and revise the plan as appropriate to ensure that identified priority roadways reflect changes in traffic counts and driving patterns and that all aspects of the plan reflect current sanding and sweeping technologies, programs, and schedules of the affected entity and requirements of the ((Authority)) Agency. All amended plans are subject to approval by the ((Authority)) Agency.

((D-))(D) Sanding Materials Specifications.

(1)(-) Material Standards. No affected entity shall use sanding materials, whether new or recycled, which equal or exceed 3% fines and 25% durability index.

(2)(-) Contractual Requirements. After the effective date of this regulation, no affected entity shall execute a contract for the purchase of sanding materials unless the contract

includes standards at least as stringent as those set forth in ~~((Subsection E.1. of this))~~ Section 6.14 (E)(1).

~~((E-))~~(E) Testing.

(1)(-) Supplier Testing Requirements.

(a)(-) Suppliers of sanding materials shall have tests performed by an approved laboratory to determine the percent fines and durability index on representative samples of their sanding materials which are supplied to affected entities.

(b)(-) The sampling and test frequency and methodology used shall ensure that the samples are representative and enable the supplier to certify to the affected entity that the actual sanding materials supplied for use will meet the requirements of ~~((Subsection D. of this))~~ Section 6.14(D).

(2)(-) User Requirements. Affected entities or their contractors, shall have at least one test performed by an approved laboratory to determine the percent fines and durability index on all recycled materials at least once for the first two hundred-fifty (250) tons of recycled materials used each season and at least once for every five hundred (500) tons of recycled materials used thereafter during the same season.

(3)(-)(~~(Authority))~~ Agency Audits. The ~~((Authority))~~ Agency may enter the site of any affected entity or supplier of sanding materials subject to this Section for the purpose of obtaining a sample of sanding materials to determine if the materials meet the requirements of ~~((Subsection D. of this))~~ Section 6.14(D).

~~((F-))~~(F) Reporting.

(1)(-) Supplier Reporting Requirements. Prior to, or upon, delivery of sanding materials, suppliers shall provide affected entities that use their sanding materials a report demonstrating that the supplier has met all testing requirements of ~~((this))~~ Section 6.14 applicable to the time period in which deliveries are made. The supplier shall certify in writing to the affected entity that the sanding materials meet the requirements of ~~((Subsection D. of this))~~ Section 6.14(D).

(2)(-) Affected Entity Reporting Requirements.

(a)(-) Affected entities that use recycled sanding materials shall submit to the ~~((Authority))~~ Agency copies of the results of testing conducted according to ~~((Subsection E.2. of this))~~ Section 6.14 (E)(2) no later than thirty (30) days after the tests are conducted.

(b)(-) No later than June 30, of each year, affected entities shall submit a report to the ~~((Authority))~~ Agency containing information for the preceding season on:

1.(+) ~~((#))~~The total amount of sanding materials (both new and recycled) and salt and other deicing chemicals used;

2.(+) ~~((#))~~The number of lane miles sanded, salted and deiced; and

3.(+) ~~((#))~~The number of full deployment episodes; and

(c)(-) Within seven (7) calendar days of awarding a contract for the purchase of sanding materials to a supplier, an affected entity shall notify the ~~((Authority))~~ Agency of the supplier's name and location of the aggregate sources from which the materials will be supplied.

(d)(-) Affected entities shall maintain on file reports received under the provisions of ~~((Subsection F.1. of this))~~ Section 6.14 (F)(1) for a period of three (3) years.

(3)(-) Sweeper Reporting Requirements.

(a)(-) Affected entities shall maintain monthly records to document the information described below. No later than June 30, of each year, each affected entity shall submit a report to the ~~((Authority))~~ Agency that shall contain the information described below.

1.(+) Date of each sweeping operation;

2.(+) Priority lane miles swept;

3.(+) All other lane miles swept;

4.(+) Type of equipment used; and

5.(+) Number of passes on priority roadways.

(4)(-) ~~((Authority))~~ Agency Audits. All records generated under the provisions of ~~((this))~~ Section 6.14 shall be made available for inspection upon request by the ~~((Authority))~~ Agency.

~~((G-))~~(G) Alternate Test Methods and Standards. Alternate percent fines and durability index test procedures may be approved by the ~~((Authority))~~ Agency should they be determined to provide a measure that is equivalent to the test procedures of ~~((this))~~ Section 6.14.

~~((H-))~~(H) Alternate Sanding Materials. Experimentation with new sanding materials may be approved by the ~~((Authority))~~ Agency provided the ~~((Authority))~~ Agency finds that the impact of such experiments will not cause a failure to maintain the 70% reduction in PM₁₀ emissions from the 1992-93 base season, as described in ~~((Subsection C-))~~ Section 6.14(C).

AMENDATORY SECTION

SECTION 6.15 STANDARDS FOR CONTROL OF PARTICULATE MATTER ON UNPAVED ROADS

~~((A-))~~(A) Applicability. The provisions of SRCAA Regulation I, Article VI, Section 6.15 shall apply to:

(1)(-) ~~((The City of Spokane, the Town of Millwood, Spokane County, and other))~~ Any governmental ~~((entities))~~ agency of a state, county, city or municipal corporation, responsible for the maintenance of unpaved public roads within the PM₁₀ Nonattainment Area; and

(2)(-) Those specific unpaved public roads which have been identified by Ecology or the ~~((Authority))~~ Agency for inclusion in an implementation plan or a maintenance plan for control of PM₁₀ emissions.

~~((B-))~~(B) Definitions.

(1)(-) ~~((Authority))~~ Agency means the Spokane Regional Clean Air Agency.

(2)(-) Ecology means the Washington Department of Ecology.

(3)(-) EPA means the United States Environmental Protection Agency or the Administrator of the United States Environmental Protection Agency or his/her designated representative.

(4)(-) Implementation Plan has the same meaning as in Section 110 of the Federal Clean Air Act (42 USC 7410).

(5)(-) Maintenance Plan has the same meaning as in Section 175A of the Federal Clean Air Act (42 USC 7505).

(6)(-) Palliative means salts and other hygroscopic materials, petroleum resins, asphalt emulsions, adhesives, chemical soil stabilizers or other surface treatment materials acting as a method of dust control, and not prohibited for use by any local, state, or federal law, rule, or regulation.

(7)(-) *Paved* means application of concrete, asphaltic concrete, asphalt, or combination thereof as a means of forming a permanent surface for a road.

(8)(-) *PM₁₀ Nonattainment Area* means the Spokane County PM₁₀ Nonattainment Area, defined in 40 CFR ((Title 40,)) Part 81, as designated on November 15, 1990. This definition will remain in effect, even after EPA makes the determination that the PM₁₀ standard that existed before September 16, 1997, no longer applies to Spokane County. Retaining the definition ensures compliance with the EPA's Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM₁₀ NAAQS, dated December 29, 1997, by continuing implementation of control measures in the Implementation Plan and preserving air quality gains.

(9)(-) *Reasonable Further Progress* has the same meaning as in Section 171(1) of the Federal Clean Air Act (42 USC 7501).

(C) Emission Reduction and Control Plan. Each applicable governmental entity shall submit an Emission Reduction and Control Plan for approval by the ((Authority)) Agency, which includes the following for each applicable unpaved road:

(1)(-) A schedule for paving, periodic application of palliative, or implementation of other control measures.

(2)(-) Specification of the type of palliative to be applied and its application rate, paving specifications, or specifications of other control measures with sufficient detail for the ((Authority)) Agency to determine emission reductions.

(D) Emission Reduction Contingency Plan. Each applicable governmental entity shall submit an Emission Reduction Contingency Plan for approval by the ((Authority)) Agency, which includes the following for each applicable unpaved road:

(1)(-) A schedule for paving, periodic application of palliative, or implementation of other control measures.

(2)(-) Specification of the type of palliative to be applied and its application rate, paving specifications, or specifications of other control measures with sufficient detail for the ((Authority)) Agency to determine emission reductions.

(E) Effective ((d))Dates. The applicable governmental entities shall comply with the following effective dates whenever an unpaved road is identified by Ecology or the ((Authority)) Agency for control of PM₁₀ emissions as part of an implementation plan:

(1)(-) For any unpaved road so identified prior to the effective date of Section 6.15 ((of this regulation)), the entity shall submit the Emission Reduction and Control Plan or Emission Reduction Contingency Plan, whichever applies, within sixty (60) days after the effective date.

(2)(-) For any unpaved road so identified after the effective date of Section 6.15 ((of this regulation)), the entity shall submit the Emission Reduction and Control Plan or Emission Reduction Contingency Plan, whichever applies, within sixty (60) days after such identification.

(F) Approval and Implementation.

(1)(-) The ((Authority)) Agency shall review the Emission Reduction and Control Plan submitted pursuant to Sec-

tion 6.15(C) ((-C. of this Regulation)) and within sixty (60) days after approval by the ((Authority)) Agency, the applicable governmental entity shall implement the plan.

(2)(-) The ((Authority)) Agency shall review the Emission Reduction Contingency Plan submitted pursuant to Section 6.15(D) ((-D. of this Regulation)) and upon approval by the ((Authority)) Agency and within sixty (60) days after the EPA makes the findings in Section 6.15(G) ((-G. of this Regulation)), the applicable governmental entity shall implement the plan.

(3)(-) The ((Authority)) Agency will not approve an Emission Reduction and Control Plan or an Emission Reduction Contingency Plan unless the ((Authority)) Agency finds that the plans will achieve the total emission reductions required by the implementation plan. If the ((Authority)) Agency finds that a plan will not achieve the required reductions, then the applicable governmental entity shall revise the plan to achieve the required reductions and resubmit the plan for review by the ((Authority)) Agency.

(G) Findings by EPA. In the event the EPA determines that the Spokane PM₁₀ Nonattainment Area has failed to make Reasonable Further Progress or has failed to timely attain a National Ambient Air Quality Standard for PM₁₀ or has violated a National Ambient Air Quality Standard for PM₁₀ after redesignation as an attainment area, and emissions from unpaved roads are determined by the EPA, in consultation with Ecology and the ((Authority)) Agency, to be a contributing factor to such failure or violation, the applicable governmental entities shall comply with the requirements of Section 6.15 (F)(2) ((-F.2. of this Regulation)).

(H) Reporting. Within six (6) months after the effective date of Section 6.15 ((of this Regulation)), and annually thereafter as determined by the ((Authority)) Agency, each applicable governmental entity shall submit a written report to the ((Authority)) Agency which demonstrates compliance with the Emission Reduction and Control Plans and the Emission Reduction Contingency Plans.

(I) Failure to ((e))Comply. Failure to comply with Section 6.15 ((of this Regulation)) will subject affected entities to penalties as provided in SRCAA Regulation I, Article II ((of this Regulation)).

AMENDATORY SECTION

SECTION 6.17 STANDARDS FOR MUNICIPAL SOLID WASTE COMBUSTORS

(A) Purpose. SRCAA Regulation I, Article VI, Section 6.17 ((This section)) implements the emission guidelines promulgated by the United States Environmental Protection Agency (EPA) in 40 CFR Part 60, Subpart Cb, establishing standards for the control of certain pollutants emitted from municipal solid waste combustors.

(B) Definitions. The definitions in 40 CFR ((§)) 60.31b, as in effect on December 1, 2006, are adopted by reference except:

(1)(-) The references to ((§)) 60.52b(c) in the definitions of maximum demonstrated municipal waste combustor unit load and maximum demonstrated particulate matter control device temperature are hereby changed to ((§)) 60.33b (c) (1).

~~(2)~~(-) In sections 60.53b, 60.58b, and 60.59b, Administrator means both the administrator of EPA and the (~~Spokane County Air Pollution Control Authority~~) the Agency.

~~(C)~~(C) Applicability. Section 6.17 applies to all facilities within Spokane County that are designated facilities as established in 40 CFR ((§)) 60.32b, as in effect on December 1, 2006.

~~(D)~~(D) Emission Standards. The following emission standards are adopted by reference.

(1)(-) Particulate matter emissions shall not exceed the emission limit in 40 CFR ((§)) 60.33b (a)(1)(i), as in effect on December 1, 2006.

(2)(-) Opacity shall not exceed the emission limit in 40 CFR ((§)) 60.33b (a)(1)(iii), as in effect on December 1, 2006.

(3)(-) Cadmium emissions shall not exceed the emission limit in 40 CFR ((§)) 60.33b (a)(2)(i), as in effect on December 1, 2006.

(4)(-) Lead emissions shall not exceed the emission limit in 40 CFR ((§)) 60.33b (a)(4), as in effect on December 1, 2006.

(5)(-) Mercury emissions shall not exceed the emission limit in 40 CFR ((§)) 60.33b (a)(3), as in effect on December 1, 2006.

(6)(-) Sulfur dioxide emissions shall not exceed the emission limit in 40 CFR ((§)) 60.33b (b)(3)(i), as in effect on December 1, 2006.

(7)(-) Hydrogen chloride emissions shall not exceed the emission limit in 40 CFR ((§)) 60.33b (b)(3)(ii), as in effect on December 1, 2006.

(8)(-) Dioxins/furans emissions shall not exceed the emission limit in 40 CFR ((§)) 60.33b (c)(1), as in effect on December 1, 2006.

(9)(-) Nitrogen oxide emissions shall not exceed the emission limits in Table 1 of 40 CFR ((§)) 60.33b(d) (24-hour daily arithmetic average), as in effect on December 1, 2006.

(10)(-) Carbon monoxide emissions shall not exceed the emission levels specified in Table 3 of 40 CFR ((§)) 60.34b(a), as in effect on December 1, 2006.

~~(E)~~(E) Operating Practices. The operating practices of 40 CFR ((§)) 60.53b (b) and (c), as in effect on December 1, 2006, are adopted by reference.

~~(F)~~(F) Operator Training and Certification. The operator training and certification requirements of 40 CFR ((§)) 60.54b, as in effect on December 1, 2006, are adopted by reference with the following change:

(1)(-) A State certification program may only be used to meet the certification requirements if it has been demonstrated to EPA's satisfaction that the State program is equivalent to the American Society of Mechanical Engineers certification program.

~~(G)~~(G) Fugitive Ash Emissions. The fugitive ash emission requirements of 40 CFR ((§)) 60.55b, as in effect on December 1, 2006, are adopted by reference.

~~(H)~~(H) Compliance and Performance Testing. The compliance and performance testing requirements in 40 CFR ((§)) 60.58b, as in effect on December 1, 2006, are adopted by reference with the following changes:

(1)(-) In §60.58b (a)(1)(iii), the references to ((§)) 60.53b(a) are hereby changed to Table 3 of ((§)) 60.34b(a).

(2)(-) In ((§)) 60.58b(c), the reference to ((§)) 60.52b (a)(1) and (a)(2) is hereby changed to ((§)) 60.33b (a)(1)(i) and (iii).

(3)(-) In ((§)) 60.58b(d), the reference to ((§)) 60.52b (a) is hereby changed to ((§)) 60.33b (a)(2), (a)(3), and (a)(4).

(4)(-) In ((§)) 60.58b (d)(1), the reference to ((§)) 60.52b (a)(3) and (4) is hereby changed to ((§)) 60.33b (a)(2) and (a)(4).

(5)(-) All references to ((§)) 60.52b (a)(5) in ((§)) 60.58b are hereby changed to ((§)) 60.33b (a)(3).

(6)(-) In ((§)) 60.58b(e), the reference to ((§)) 60.52b (b)(1) is hereby changed to ((§))60.33b (b)(3)(i).

(7)(-) In ((§)) 60.58b(f), the reference to ((§)) 60.52b (b)(2) is hereby changed to ((§)) 60.33b (b)(3)(ii).

(8)(-) All references to ((§)) 60.52b(c) in ((§)) 60.58b are hereby changed to ((§)) 60.33b (c)(1).

(9)(-) In ((§)) 60.58b (g)(5)(iii), the alternate testing schedule for dioxins/furans, as applicable, shall be available to facilities that achieve a dioxin/furan emission level less than or equal to 15 nanograms per dry standard cubic meter total mass, corrected to 7 percent oxygen.

(10)(-) In ((§)) 60.58b(h), the references to ((§)) 60.52b(d) are hereby changed to Table 1 of ((§)) 60.33b(d).

(11)(-) In ((§)) 60.58b(i), the reference to ((§)) 60.53b is hereby changed to Table 3 of ((§)) 60.34b(a) and ((§)) 60.53b (b) and (c).

(12)(-) In ((§)) 60.58b(i), the references to ((§)) 60.53b (a) are hereby changed to Table 3 of ((§)) 60.34b(a).

~~(I)~~(I) Reporting and Recordkeeping. The reporting and recordkeeping requirements in 40 CFR ((§)) 60.59b, as in effect on December 1, 2006, are adopted by reference with the following changes:

(1)(-) ((§)) 60.59b (a), (b)(5), and (d)(11) are hereby deleted.

(2)(-) In ((§)) 60.59b(d), the reference to ((§)) 60.52b is hereby changed to ((§)) 60.33b.

(3)(-) In ((§)) 60.59b(d), the reference to ((§)) 60.53b is hereby changed to Table 3 of ((§)) 60.34b(a) and ((§)) 60.53b (b) and (c).

~~(J)~~(J) Compliance Schedule. All designated facilities, as determined in Section 6.17(B)(-) above, shall comply with the requirements of Section 6.17 as of the effective date of this regulation except for the following:

(1)(-) The requirement specified in ((§)) 60.54b(d) does not apply to chief facility operators, shift supervisors, and control room operators who have obtained full certification from the American Society of Mechanical Engineers or a state certification plan on or before December 1, 1999.

(2)(-) The owner or operator may request that the EPA Administrator waive the requirement specified in ((§))60.54b (d) for chief facility operators, shift supervisors, and control room operators who have obtained provisional certification from the American Society of Mechanical Engineers or a state certification plan on or before December 1, 1999.

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

AMENDATORY SECTION

SECTION 10.02 FEES AND CHARGES REQUIRED

(A) Additional Fee for Failure to Pay. Any fee assessed under Article X shall be paid within forty-five (45) days of assessment. Failure to pay an assessed fee in full within ninety (90) days of assessment will result in the imposition of an additional fee equal to three (3) times the amount of the original fee assessed.

(B) Revenues Collected per RCW 70.94.161. Revenues collected per RCW 70.94.161 shall be deposited in the operating permit program dedicated account and shall be used exclusively for the program.

(C) Method of Calculating Fees in Article X. Invoice totals will be rounded-up to the nearest one (1) dollar, except for public records fees per Section 10.05(A) and Annual AOP Fees per Section 10.06(C).

(D) Periodic Fee Review. The Board shall periodically review all agency fees in the Fee Schedule and determine if the total projected fee revenue to be collected is sufficient to fully recover direct and indirect program costs. If the Board determines that the total projected fee revenue significantly exceeds or is insufficient for the program costs, then the Board shall amend the Fee Schedule to more accurately

(1)

Registration Fee Categories	Fee	Fee Applicability
Facility Fee ^A	Per the Fee Schedule	Per Source
Emissions Fee ^B	Per the Fee Schedule	Per Ton
Emission Point Fee ^C	Per the Fee Schedule	Per Stack/Point
Synthetic Minor Fee ^D	Per the Fee Schedule	Per Source

- A Each source is subject to the fee listed in the Fee Schedule.
- B The additional fee applies to each ton (rounded to the nearest one-tenth of a ton) of each criteria pollutant, volatile organic compound (VOC), and non-VOC toxic air pollutant emitted.
- C The additional fee applies to each stack and other emission points, including sources of fugitive emissions (e.g., fugitive dust emissions from crushing operations; storage piles; mixing and clean-up associated with surface coating). For gasoline stations, each gasoline tank vent is an emission point.
- D The additional fee applies to each Synthetic Minor.

(2) Calculating Annual Registration Fee without Required Registration Information. When registration information required in Article IV, Section 4.02 is not provided by the form due date, the annual registration fee will be based on the source's maximum potential production rate. ~~((This method will be used:~~

~~(a) When registration information is not received within ninety (90) days of request, or~~

~~(b) Prior to the registration fee invoice date, whichever is later.))~~

(C) Annual AOP Fee. The annual fee for each AOP source shall be determined as follows:

(1) AOP Annual Fee. For sources that are subject to the AOP program during any portion of the calendar year, the annual fee shall be determined by adding all of the applicable fees described below:

- (a) Annual base fee per the Consolidated Fee Schedule.
- (b) Emission fee per the Consolidated Fee Schedule.

recover program costs. Any proposed fee revisions shall include opportunity for public review and comment.

AMENDATORY SECTION

SECTION 10.06 ANNUAL REGISTRATION AND ANNUAL AIR OPERATING PERMIT (AOP) FEES ~~((FOR AIR CONTAMINANT SOURCES))~~

(A) Annual Fee. Each source required by SRCAA Regulation I, Article IV, Section 4.01 to be registered, each AOP source, and each source required by Article V, Section 5.02 to obtain an approved NOC ~~((Notice of Construction (NOC)))~~ and Application for Approval is required to pay an annual fee for each calendar year, or portion of each calendar year, during which it operates. The owner, operator, or both, shall be responsible for payment of the fee per the requirements in Article X, Section 10.06. Fees received as part of the registration program or the operating permit program shall not exceed the actual costs of program administration.

(B) Annual Registration Fee. The annual fee for each source required by Article IV, Section 4.01 to be registered and that is not subject to Article X, Section 10.06(C) shall be determined by adding all of the applicable fees below:

(c) Agency time fee, as determined per the Consolidated Fee Schedule.

(d) AOP Program Cost Correction, as determined per the Consolidated Fee Schedule.

(e) A share of the assessment by Ecology per RCW 70.94.162(3), as determined per the Consolidated Fee Schedule.

(2) Acid Deposition Fee. For affected units under Section 404 (Acid Deposition Standards) of the Federal Clean Air Act (42 USC 7401 et seq.), the air operating permit fee shall be determined by adding all of the applicable fees described below:

(a) The AOP Acid Deposition Fee shall be calculated as follows:

1. Hourly Fee. The hourly fee is calculated by multiplying the total staff time spent in reviewing and processing the request (rounded-up to the nearest half-hour) by the hourly rate as listed in the Fee Schedule, for time expended in carrying out the fee eligible activities specified in Chapter 70.94 RCW; and

2. Ecology Assessment. A share of the assessment by Ecology per RCW 70.94.162(3), as determined per the Fee Schedule.

(b) Hourly Rate. The hourly rate is calculated by:

$$\text{Hourly Rate} = \frac{\text{Total AOP Program Costs}}{\text{Total AOP Program Hours}}$$

(c) Hourly Rate Revision. Revisions to the hourly rate are based on a three (3) year average of the three (3) most rep-

representative fiscal years out of the four (4) ~~((recent))~~ preceding fiscal years, rounded-up to the nearest one (1) dollar.

AMENDATORY SECTION

SECTION 10.07 NOTICE OF CONSTRUCTION (NOC) AND PORTABLE SOURCE PERMIT (PSP) APPLICATION ~~((AND PERMIT))~~ FEES ~~((FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL (NOC) AND FOR NOTICE OF INTENT (NOI) TO INSTALL AND OPERATE A TEMPORARY STATIONARY SOURCE))~~

(A) NOC and ~~((NOI))~~ PSP Fees.

(1) NOC/~~((NOI))~~ PSP Class, Base Fee, Fee for Additional NOC/~~((NOI))~~ PSP Review Hours, SEPA Fee, and Fee Determination. For each project required by SRCAA Regulation I, Article V, to file a NOC or a ~~((NOI))~~ PSP application, the owner or operator must pay the following applicable fees in (b) through (d) below:

(a) NOC/~~((NOI))~~ PSP Class. Each NOC/~~((NOI))~~ PSP application will be assigned a Class, as follows:

1. Class I - ~~((NOI))~~ PSP to install and operate portable ~~((stationary sources and temporary stationary))~~ sources include the following:

Article IV Source/Source Category Description
Asphalt plant
Concrete production operation/ready mix plant
Rock crusher

2. Class II - Simple NOCs include the following:

Article IV Source/Source Category Description
Coffee roaster
Degreaser/solvent cleaner (not subject to 40 CFR Part 63, Subpart T) subject to Article IV
Dry cleaner (non halogenated solvent)
Evaporator subject to Article IV
Gasoline dispensing facility with maximum annual gasoline throughput <u>less than or equal to</u> (\leq) 1.5 million gallons
Graphic art system, including lithographic and screen printing operation, subject to Article IV
Material handling operation that exhausts <u>greater than</u> (\geq) 1,000 and <u>less than</u> (\leq) 10,000 acfm to the ambient air
Organic vapor collection system within commercial or industrial facility that is subject to Article IV
Rock, asphalt, or concrete crusher
Spray booth/surface coating operation that exhausts <u>less than or equal to</u> (\leq) 10,000 acfm to the ambient air
Sterilizer subject to Article IV
Wood furniture stripping operation subject to Article IV

3. Class III - Standard NOCs include the following:

Article IV Source/Source Category Description
Soil and groundwater remediation operation subject to Article IV

Article IV Source/Source Category Description
Bakery subject to Article IV
Bed lining or undercoating operation subject to Article IV
Boiler and other fuel-burning equipment with maximum per unit heat input <u>less than</u> (\leq) 100 MMBtu/hr
Brick and clay products manufacturing operations
Burn out, kiln, and curing oven
Chrome plating operation
Concrete production operation
Dry cleaner (halogenated solvent)
Gasoline dispensing facility with maximum annual gasoline throughput <u>greater than</u> (\geq) 1.5 million gallons
Grain handling; seed, pea and lentil processing facility
Incinerator/crematory
Internal combustion engine used for standby, back-up operations rated <u>greater than or equal to</u> (\geq) 500 bhp
Internal combustion engine, other than engines used for standby or backup operation rated <u>greater than or equal to</u> (\geq) 100 bhp
Material handling operation that exhausts <u>greater than or equal to</u> (\geq) 10,000 acfm to the ambient air
Metal casting facility/foundry
Metal plating or anodizing operation
Metallurgical processing operation
Mill; lumber, plywood, shake, shingle, woodchip, veneer operation, dry kiln, wood products, grain, seed, feed, or flour
Plastic and fiberglass operations using <u>greater than</u> (\geq) 55 gallons per year of all VOC and toxic air pollutant containing materials
Spray booth/surface coating operation that exhausts <u>greater than</u> (\geq) 10,000 acfm to the ambient air
Storage tank for organic liquid with capacity <u>greater than</u> (\geq) 20,000 gallons
Stump/woodwaste grinder
Tire recapping operation

4. Class IV - Complex NOCs include the following:

Article IV Source/Source Category Description
Asphalt plant
Boiler and other fuel-burning equipment with maximum per unit heat input <u>greater than or equal to</u> (\geq) 100 MMBtu/hr
Bulk gasoline and aviation gas terminal, plant, or terminal
Cattle feedlot subject to Article IV
Chemical manufacturing operation
Composting operation

Natural gas transmission and distribution facility
Paper manufacturing operation, except Kraft and sulfite paper mills
Petroleum refinery
Pharmaceutical production operation
Refuse systems
Rendering operation
Semiconductor manufacturing operation
Sewerage systems
Wholesale meat/fish/poultry slaughter and packing plant

5. For sources/source categories not listed in Section 10.07(A)(1)(a), each NOC/~~((NOI))~~ PSP application will be assigned to Class I, II, III or IV by the Control Officer on a case-by-case basis.

(b) Base fee. A base fee must be paid to the Agency with the submission of each completed NOC/~~((NOI))~~ PSP application. The base fee applicable for each NOC/~~((NOI))~~ PSP Class is listed in the Consolidated Fee Schedule.

1. For each NOC/~~((NOI))~~ PSP application, the base fee covers staff time spent in reviewing and processing the application up to the listed number of base-fee hours provided in the Fee Schedule for each class of NOC/~~((NOI))~~ PSP.

2. For sources with one or more emission points under one NOC application, ~~((as allowed in Article V, Section 5-02-G,))~~ a separate base fee applies to each emissions unit, or each group of like-kind emissions units, being installed or modified. A group of emissions units will be considered as like-kind if the same set of emission calculations can be used to characterize emissions from each of the emissions units.

(c) Fee for Additional NOC/~~((NOI))~~ PSP Review Hours. When the staff time hours spent reviewing and processing a NOC/~~((NOI))~~ PSP application exceeds the listed number of base-fee hours provided in the Consolidated Fee Schedule for the applicable class of NOC/~~((NOI))~~ PSP, an additional fee will be charged. The additional fee is calculated by multiplying the total staff time spent in reviewing and processing the NOC/~~((NOI))~~ PSP application that exceeds the listed number of review hours (rounded up to the nearest half-hour) by the hourly rate as listed in the Consolidated Fee Schedule.

(d) SEPA Review Fee. Where submittal of an Environmental Checklist, ~~((is required))~~ per the State Environmental Policy Act (SEPA) Chapter 197-11 WAC is required in association with a NOC or a ~~((NOI))~~ PSP, and SRCAA is the lead agency, the applicant must pay a SEPA review fee as listed in the Consolidated Fee Schedule. The SEPA review fee must be paid with the submission of the Environmental Checklist to the Agency.

(e) Fee Determinations.

1. The base fee is calculated by multiplying the number of base-fee hours for the NOC/~~((NOI))~~ PSP class by the hourly rate listed in the Fee Schedule.

2. Hourly Rate. The hourly rate is calculated by:

$$\text{Hourly Rate} = \frac{\text{Total NOC and } \del{((NOI))} \text{ PSP Program Costs}}{\text{Total NOC and } \del{((NOI))} \text{ PSP Program Hours}}$$

3. Hourly Rate Revision. Revisions to the hourly rate are based on a three (3) year average of the three (3) most representative fiscal years out of the four (4) ~~((recent))~~ preceding fiscal years, rounded-up to the nearest one (1) dollar.

(2) Fees for Replacement or Substantial Alteration of Control Technology and for Changes to an Order of Approval or Permission to Operate.

(a) The following NOC applications or requested changes to an Order of Approval or Permission to Operate must pay a fee as listed in the Fee Schedule. The fee will be assessed each time a request is submitted and will be invoiced to the owner or operator with the final determination.

1. NOC applications for replacement or substantial alteration of control technology under WAC 173-400-114.

2. An owner or operator requesting a modification, revision, and/or change in conditions of an approved Order of Approval or Permission to Operate, under Article V, Section 5.10~~((C))~~~~((-E))~~.

(b) The fee is calculated by adding all the applicable fees described below:

1. Minimum Fee. The minimum fee, as listed in the Consolidated Fee Schedule, will be assessed for all NOCs reviewed under WAC 173-400-114 and revision request reviews. The minimum fee includes the first three (3) hours of staff time spent in reviewing and processing the request; and

2. Hourly Fee. The hourly fee is calculated by multiplying the total staff time spent in reviewing and processing the request beyond the first three (3) hours covered in 10.07 (A) (2)(b)1. Consolidated Fee Schedule.

(c) Fee Determinations.

1. Flat Fee. The revision flat fee is calculated by multiplying three (3) hours by the hourly rate listed in the Consolidated Fee Schedule.

2. Hourly Rate. The hourly rate is calculated by:

$$\text{Hourly Rate} = \frac{\text{Total NOC and } \del{((NOI))} \text{ PSP Program Costs}}{\text{Total NOC and } \del{((NOI))} \text{ PSP Program Hours}}$$

3. Hourly Rate Revision. Revisions to the hourly rate are based on a three (3) year average of the three (3) most representative fiscal years out of the four (4) ~~((recent))~~ preceding fiscal years, rounded-up to the nearest one (1) dollar.

(B) Payment of Fees.

(1) Upon Submission of Application. The base fee and SEPA fee (if applicable) must be paid at the time the ~~((NOI))~~ NOC/PSP application is submitted to the Agency. Review of the ~~((NOI))~~ NOC/PSP application will not commence until the base fee and SEPA fee (if applicable) is received.

(2) After Application.

(a) Complete Applications. The Agency will invoice the owner, operator, or both, for Fees for Additional NOC/~~((NOI))~~ PSP Review Hours, if applicable. The fees must be paid whether the application is approved or denied.

(b) Incomplete Applications.

1. If an owner, operator, or both, notifies the Agency in writing that an application will not be completed or cancels the application; or the application remains incomplete for more than three (3) months; the Agency will invoice the owner, operator, or both, for payment of applicable fees.

2. Applications not accompanied by the base fee and SEPA fee (if applicable) will be considered incomplete. If information requested by the Agency is not provided, the application will be considered incomplete and review of the application will be suspended. Review of the application will commence, or recommence, when all required fees and information requested by the Agency is received. An application will be cancelled if it remains incomplete for more than eighteen (18) months from initial receipt. For review of the cancelled application to resume, the applicant must pay all outstanding invoice fees (if applicable), and resubmit the base fee and SEPA fee (if applicable).

(C) Compliance Investigation Fee. When a compliance investigation is conducted per Article V, Section 5.12, the compliance investigation fee shall be assessed per the Consolidated Fee Schedule. The fee shall be assessed for each emissions unit, or group of like-kind emissions units, being installed or modified. A group of emissions units shall be considered as like-kind if the same set of calculations can be used to characterize emissions from each of the emissions units.

AMENDATORY SECTION

SECTION 10.08 MISCELLANEOUS FEES

(A) Miscellaneous Fees.

(1) Emission Reduction Credit Fee.

(a) Review of emission reduction credits per WAC 173-400-131 shall require the applicant to pay an emission reduction credit fee per the Consolidated Fee Schedule.

(b) The fee is calculated by multiplying the total staff time spent reviewing and processing the request, rounded-up to the nearest half-hour, by the hourly rate, per the Consolidated Fee Schedule.

(c) Hourly Rate. The hourly rate is calculated by:

$$\text{Hourly Rate} = \frac{\text{Total NOC and ((N\O\I)) PSP Program Costs}}{\text{Total NOC and ((N\O\I)) PSP Program Hours}}$$

(d) Hourly Rate Revision. Revisions to the hourly rate are based on a three (3) year average of the three (3) most representative fiscal years out of the four (4) (~~recent~~) preceding fiscal years, rounded-up to the nearest one (1) dollar.

(2) Variance Request Fee.

(a) Processing a variance request per RCW 70.94.181 or SRCAA Regulation I, Article III, shall require the applicant to pay a variance request fee per the Consolidated Fee Schedule. The fee will be assessed each time a request is submitted and will be invoiced to the applicant with the final determination.

(b) The variance request fee is calculated by adding all of the applicable fees described below:

1. Filing fee per the Consolidated Fee Schedule.
2. Agency legal fees related to the variance request.
3. (~~Agency legal~~) Public notice fees.
4. Hourly fee. The hourly fee is calculated by multiplying the total staff time spent in reviewing and processing the request, rounded-up to the nearest half-hour, by the hourly rate, as listed in the Consolidated Fee Schedule.

(c) Fee Determination.

1. The hourly rate is calculated by:

$$\text{Hourly Rate} = \frac{\text{Total Program Costs}}{\text{Total Program Hours}}$$

2. Revisions to the hourly rate are based on a three (3) year average of the three (3) most representative fiscal years out of the four (4) (~~recent~~) preceding fiscal years, rounded-up to the nearest one (1) dollar.

(3) Alternate Opacity Fee.

(a) Review of an alternate opacity limit per RCW 70.94.331 (2)(c) shall require the applicant to pay an alternate opacity fee per the Consolidated Fee Schedule.

(b) The fee is calculated by multiplying the total staff time spent in reviewing and processing the request, rounded-up to the nearest half-hour, by the hourly rate, as listed in the Consolidated Fee Schedule.

(c) Hourly Rate. The hourly rate is determined by:

$$\text{Hourly Rate} = \frac{\text{Total NOC and ((N\O\I)) PSP Program Costs}}{\text{Total NOC and ((N\O\I)) PSP Program Hours}}$$

(d) Hourly Rate Revision. Revisions to the hourly rate are based on a three (3) year average of the three (3) most representative fiscal years out of the four (4) (~~recent~~) preceding fiscal years, rounded-up to the nearest one (1) dollar.

(4) Other Services Fee.

(a) Applicants of other services including:

1. Requests under the following sections of Regulation I, Article VI, Sections 6.13 (E)(3)(j); 6.13 (F)(4); 6.13 (F)(6); 6.13 (F)(9); 6.13 (F)(10); and 6.13 (F)(11). (~~(6.13.E.3.j; 6.13.F.4.; 6.13.F.6.; 6.13.F.9.; 6.13.F.10.; and 6.13.F.11.)~~)

2. Registration exemption requests.

3. Other.

(b) Applicants shall pay a fee per the Consolidated Fee Schedule.

(c) The fee is calculated by multiplying the total staff time spent in reviewing and processing the request, rounded-up to the nearest half-hour, by the hourly rate, as listed in the Fee Schedule.

(d) Hourly Rate. The hourly rate is calculated by:

$$\text{Hourly Rate} = \frac{\text{Total NOC and ((N\O\I)) PSP Program Costs}}{\text{Total NOC and ((N\O\I)) PSP Program Hours}}$$

(e) Hourly Rate Revision. Revisions to the hourly rate are based on a three (3) year average of the three (3) most representative fiscal years out of the four (4) (~~recent~~) preceding fiscal years, rounded-up to the nearest one (1) dollar.

(B) Payment of Fees. The Agency will invoice the owner, operator, or both, for all applicable fees. The fees shall be paid without regard to whether the request(s) associated with Article X, Section 10.08 (A)(1), (2), (3) and (4) are approved or denied; except Section 10.08 (A)(2) as provided in Article III, Section 3.02.B.

AMENDATORY SECTION

SECTION 10.11 (~~RESERVED~~) OXYGENATED GASOLINE (Repealed 9/1/05, Res. 05-19)

AMENDATORY SECTION

SECTION 10.13 OUTDOOR BURNING WAITING PERIOD AND FEES

(A) Permit Application. An outdoor burning permit application must be completed and submitted to the Agency per SRCAA Regulation I, Article VI, Section 6.01. Incomplete applications and applications received without the applicable fee will be returned to the applicant.

(B) Advance Application Period. A complete and accurate application must be received by the Agency in advance of the first proposed burn date by the number of working days specified in the table below.

Type of Outdoor Burning	Working Days*
Social Event Fires [<u>Section 6.01 (D)(9)</u>] ((<u>Seet. 6.01.D.9.</u>))	10
Storm or Flood Debris Burning [<u>Section 6.01 (D)(10)</u>] ((<u>Seet. 6.01.D.10.</u>))	10
Types of Other Outdoor Burning Not Listed in Sections <u>6.01 (D)(1 through 12)</u> [<u>Section 6.01 (D)(13)</u>] ((<u>6.01.D.1.-12.</u> (<u>Seet. 6.01.D.13.</u>))	10

*Unless otherwise approved by the Agency.

(C) Permit Application Fees.

(1) Review Fee. A nonrefundable review fee per the Consolidated Fee Schedule shall accompany all outdoor burning permit applications. The fee shall be paid whether or not burning is conducted.

(2) Hourly Fee for Other Outdoor Burning Permits [Section 6.01 (D)(13)]
~~((Section 6.01.D.13.))~~. The hourly fee is calculated by multiplying the total staff time spent in reviewing and processing the outdoor burning application beyond the first one (1) hour covered in Section 10.13 (C)(1) (rounded-up to the nearest half-hour) and multiplied by the hourly rate, as listed in the Consolidated Fee Schedule. A billing invoice for the hourly fee will be sent to the applicant. The entire fee assessed on the invoice is nonrefundable, and shall be paid whether or not burning is conducted.

(3) Fee Determination.

(a) Hourly Rate. The hourly rate is determined by:

$$\text{Hourly Rate} = \frac{\text{Total Outdoor Burning Program Costs}}{\text{Total Outdoor Burning Program Hours}}$$

(b) Hourly Rate Revision. Revisions to the hourly rate are based on a three (3) year average of the three (3) most representative fiscal years out of the four (4) ~~(recent)~~ preceding fiscal years, rounded-up to the nearest one (1) dollar.

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

**WSR 20-08-130
PROPOSED RULES
DEPARTMENT OF AGRICULTURE**

[Filed April 1, 2020, 8:49 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-21-173.

Title of Rule and Other Identifying Information: Chapter 16-470 WAC, Quarantine—Agricultural pests, as a result of a petition from the Washington state tree fruit association (WSTFA), the department is proposing to amend the apple maggot quarantine by:

1. Adding soil and growing medium in pots and on root balls of apple maggot host plants originating from the quarantine area, to the list of regulated commodities;

2. Adding soil and growing medium in pots and on root balls of nonhost plants originating from the quarantine area that were grown within the drip line of host plants that have produced fruit, to the list of regulated commodities;

3. Specifying the criteria for how these plants may enter the pest free area if risk is mitigated;

4. Specifying the documentation that must accompany these plants when shipping to or through a pest free area and when receiving these plants from a quarantine area; and

5. Specifying the fees associated with inspection and certification services.

Hearing Location(s): On May 28, 2020, at 1:00 p.m. Webex Conference Line.

Join by link: <https://watech.webex.com/watech/j.php?MTID=m4468676e1085b17f399143da67419d95>, Meeting password: 12083396.

Join by phone: +1-415-655-0001 US Toll, +1-206-207-1700 United States Toll (Seattle), Attendee access code: 120 833 96; and on June 3, 2020, at 10:00 a.m. Webex Conference Line.

Join by link: <https://watech.webex.com/watech/j.php?MTID=m26cc4d97ed231b119558e95a987496d5>, Meeting password: 12083396.

Join by phone: +1-415-655-0001 US Toll, +1-206-207-1700 United States Toll (Seattle), Attendee access code: 120 833 96.

Due to the mandated social distancing requirements in place during the current COVID-19 outbreak, the public hearings for this rule amendment will be held solely over video and teleconference.

Date of Intended Adoption: June 10, 2020.

Submit Written Comments to: Gloriann Robinson, Agency Rules Coordinator, P.O. Box 42560, Olympia, WA 98504-2560, email wsdarulescomments@agr.wa.gov, fax 360-902-2092, by June 3, 2020.

Assistance for Persons with Disabilities: Contact Deanna Painter, phone 360-902-2061, TTY 800-833-6388 or 711, email dpainter@agr.wa.gov, by May 21, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 16-470 WAC establishes the parameters of the apple maggot quarantine and regulated commodities. The Washington state department of agriculture (WSDA) is proposing to include soil and growing medium in pots and on root balls of apple maggot host plants (and nonhost plants that were grown within the drip line of host plants that have produced fruit) originating from the quarantine area, to the list of regulated commodities under the apple maggot quarantine rule. The growing media of apple maggot host plants that have previously fruited or have fruit present may be infested with apple maggot. Host plants shipped from the quarantine area that have fruited, or nonhost plants that have been exposed to

fruited host plants, could result in apple maggot pupating in the growing media. If these plants move to pest free areas within the state, there is a risk of apple maggot becoming introduced into the pest free area.

Reasons Supporting Proposal: Apple maggot is a pest that threatens commercial and homegrown fruit, especially apples. Apple maggot is native to the northeastern United States where their primary host was hawthorn fruit until European settlers introduced apples to the region. Now apple maggot has spread throughout much of North America, threatening fruit crops from coast to coast. While several counties in Washington (primarily in western Washington) have been quarantined, not all counties have apple maggot. Most notably, most of central Washington's prime fruit growing region remains pest free.

Apple maggot hosts include apples, crabapples, native and ornamental hawthorns, cherries, prunes, plums, pears, and quinces. Apple maggot adults look like small house flies with striped wings, though they are really fruit flies. In Washington, they fly and lay their eggs primarily in July and August. Apple maggot females puncture the skin of host fruit and lay their eggs under the surface. In only three to seven days, apple maggot eggs hatch and larvae begin to emerge. The larvae eat and tunnel their way through the fruit, leaving brown trails behind. After the larvae mature, they exit the fruit and drop to the ground. They overwinter as pupae in the soil, emerging the next summer as adults, starting the cycle over again. Apple maggot can survive in the soil as pupae for at least two years, if not longer.

There is indication that growing media under fruited host plants has the potential to be contaminated with apple maggot pupae. These pupae could overwinter in the growing media and be transported into pest free areas of the state through the nursery trade, where they could later emerge as adult flies.

Once apple maggot is established, treatment is costly. Apples are the top agricultural commodity in Washington. This makes the threat of apple maggot significant, as fruit from the pest free areas has greater access to international markets. Based on these factors, it is critical to address this potential pathway of spread for apple maggot into the pest free areas of the state. The proposed rule amendment is aimed at preventing the spread of apple maggot from quarantined areas into pest free areas through the nursery trade.

Statutory Authority for Adoption: RCW 17.24.011, 17.24.041, 17.24.051.

Statute Being Implemented: Chapter 17.24 RCW.

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

Name of Proponent: WSTFA, private.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Cindy Cooper, 1111 Washington Street, Olympia, WA 98504, 360-902-2062.

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. WSDA is not a listed agency under RCW 34.05.-328 (5)(a)(i).

The proposed rule does impose more-than-minor costs on businesses.

Small Business Economic Impact Statement (SBEIS)

Chapter 16-470 WAC

Quarantine-Agricultural Pests

Apple Maggot Quarantine

March 4, 2020

WSDA contracted with Washington State University's (WSU) IMPACT Center for the research, data collection, and analysis that was required for this SBEIS. Portions of the IMPACT Center's report titled, "Technical Memorandum of: Chapter 16-470 WAC Quarantine - Agricultural Pests" were incorporated into this SBEIS.

SECTION 1: Describe the proposed rule, including: A brief history of the issue; an explanation of why the proposed rule is needed; and a brief description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule.

History: Chapter 17.24 RCW mandates "a strong system" to protect the forest, agricultural, horticultural, floricultural, and apiary industries of the state from the impact of insect pests, plant pathogens, noxious weeds, and bee pests and infestations. WSDA is charged with implementing that mandate by excluding plant and bee pests and diseases from the pest free areas of the state through regulation of agricultural commodity movement and quarantine of infested areas. RCW 17.24.041 authorizes the director of WSDA to adopt quarantine areas by rule and to prohibit the movement of all regulated commodities from quarantined areas.

Chapter 16-470 WAC establishes multiple quarantines, including one for apple maggot. The rule specifies the parameters of the quarantine including the regulated commodities. WSDA periodically updates the parameters of the quarantine, based on the most updated information available regarding the spread of apple maggot, to ensure a strong system is in place to protect the apple industry.

In response to a petition for rule making from WSTFA, WSDA is proposing to expand the apple maggot quarantine to add soil and growing medium on apple maggot host plants from a quarantine area to the list of regulated commodities. The proposed amendment to the quarantine also adds the soil and growing medium of nonhost plants that fall within the drip line¹ of host plants that have produced fruit to the list.

¹ A tree's drip line is the outermost circumference of the tree's canopy where water drips onto the ground.

Apple maggot threatens commercial and homegrown fruit, especially apples. The pest is native to the northeastern states where apple maggot's primary host was hawthorn fruit until European settlers introduced apples to the region. Now apple maggot has spread throughout much of North America, threatening fruit crops from coast to coast. While several counties in Washington (primarily in western Washington) have been quarantined, not all counties in Washington have apple maggot. Most notably, most of central Washington's prime fruit growing region remains pest free.

Apple maggot hosts include apples, crabapples, native and ornamental hawthorns, cherries, prunes, plums, pears, and quinces. Apple maggot adults look like small house flies with striped wings, though they are really fruit flies. In Washington state, they fly and lay their eggs primarily in July and

August. An apple maggot female makes a tiny puncture in the apple skin and lays eggs just under the skin's surface. While the initial damage is easily overlooked, the damage eventually leads to dimpling of the fruit surface. In just three to seven days, apple maggot eggs hatch and tiny apple maggot larvae emerge. The legless maggots are about one-sixteenth inch long and a creamy white color but grow to about one-quarter inch at maturity. The maggots eat and tunnel their way through the fruit, leaving brown trails behind. When apple maggots are mature, they exit the fruit and drop to the ground. They overwinter as pupae in the soil, emerging the next summer as adults, starting the cycle over again. Apple maggot can survive in the soil as a pupae for at least two years, if not longer (Sansford, Mastro, & Reynolds, 2016).

There is indication that growing media under fruited host plants from a quarantine area may potentially be contaminated with apple maggot pupae. These pupae could overwinter in the growing media and be transported into pest free areas of the state through the nursery trade and later emerge as adult flies. Based on these factors, it is critical to address this potential pathway of spread for apple maggot into the pest free areas of the state.

Apples are Washington state's top commodity, producing around fifty-eight percent of the total apples grown in the United States, with around thirty percent of the crop being exported to international markets (WSU Extension, n.d.). The apple industry contributes an estimated \$4.38 billion to \$4.58 billion in value-added contributions to the Washington economy (Galinato, Gallardo, Granatstein, & Willett, 2018). Left unchecked, apple maggot could have far reaching impacts on the tree fruit industry and the general economy of Washington state. Lost economic activity would influence virtually every other industry to some degree since the spending habits of individuals, not just the directly affected companies, would adjust. These impacts could include an increased cost of pesticide control in apple orchards, apples requiring additional time in cold storage, and losses due to the effects on export markets (Galinato, Gallardo, Granatstein, & Willett, 2018). If apple maggot spreads into pest free areas of the state, it could cost the apple industry \$510 million to \$557 million (Galinato, Gallardo, Granatstein, & Willett, 2018).

WSDA conducts annual apple maggot trapping surveys to determine which areas of Washington meet the official "pest free" designation. WSDA also conducts certification monitoring in or around apple orchards and implements a detection response plan, which may include denser trapping to better isolate the infestation and quarantine boundary modifications.

Why the Proposed Rule is Needed: WSDA has identified soil and growing medium on apple maggot host plants (and nonhost plants under certain circumstances) from a quarantine area as a potential pathway for the introduction of apple maggot into the pest free area. Host plants which have fruited and are shipped from a quarantine area, could be infested and result in apple maggot pupating in the growing media. If those plants move to pest free areas within the state, there is a risk that apple maggot will become established there. Additionally, nonhost plants grown within the drip line of host plants that have fruited could have pupae in their

growing media as well, resulting in the spread of apple maggot to pest free areas of the state.

Expanding the apple maggot quarantine to include soil and growing medium on host plants (and any plants grown within the drip line of fruited host plants) from a quarantine area may better protect the apple industry by slowing the possible movement of apple maggot from infested areas into pest free areas. In turn, this could help secure the apple industry's access to domestic and international markets, which have strict regulations around apple maggot. The proposed expansion of chapter 16-470 WAC to include soil and growing medium on host plants (and any plants grown within the drip line of fruited host plants) from a quarantined area as regulated commodities aims to prevent or minimize the movement of apple maggot from infested areas, to pest free areas of Washington. The proposed quarantine amendment is aimed at protecting the state's apple orchards and apple industry from an economically detrimental pest.

Probable Compliance Requirements: The proposed rule amendment regulates the movement of soil and growing medium in pots or on root balls of both host plants and non-host plants that fall within the drip line of fruiting host plants from the quarantine area.

Under the proposed rule amendment, nurseries located within a quarantine area would be required to obtain a phytosanitary certificate in order to ship host plants (and any plants that fall within the drip line of fruiting host plants) with soil or other growing medium into the pest free area.

In order for **host** plants to meet phytosanitary certification requirements, nurseries in the quarantine area would need to demonstrate that:

1. The soil or growing medium supports host plants that have not produced fruit and did not fall within the drip line of host plants that have produced fruit;
2. The soil or growing medium supports host plants that were grown in a commercial nursery and the production site is not considered threatened with infestation; or
3. The soil or growing medium of the host plants has been treated with a pesticide treatment approved by the director.

In order for **nonhost** plants grown within the drip line of host plants that have produced fruit, to meet phytosanitary certification requirements, nurseries in the quarantine area would need to demonstrate that:

1. The soil or growing medium supports nonhost plants that were grown in a commercial nursery and the production site is not considered threatened with infestation; or
2. The soil or growing medium of the nonhost plants has been treated with a pesticide treatment approved by the director.

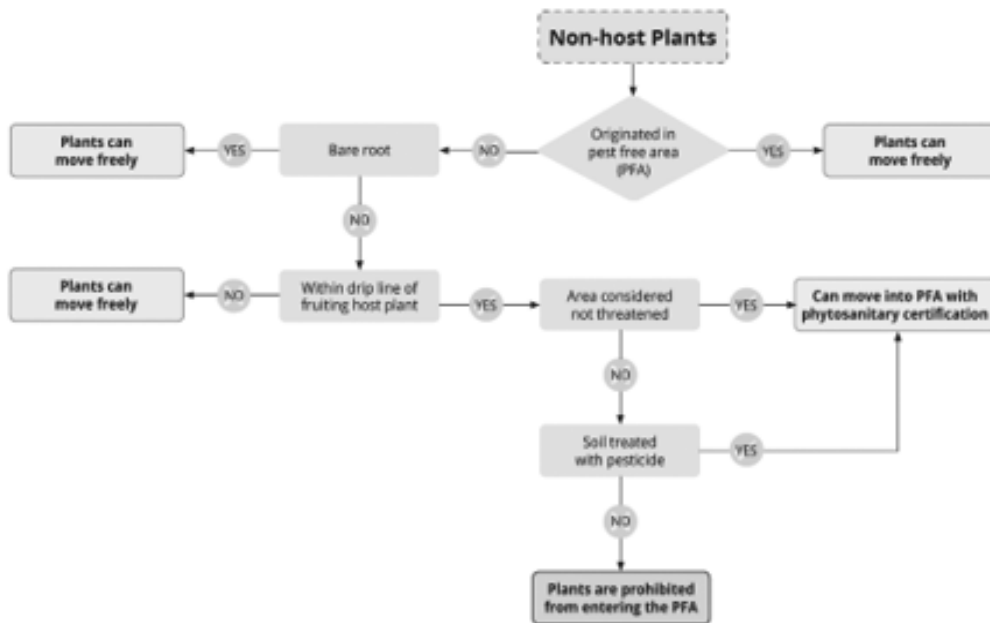
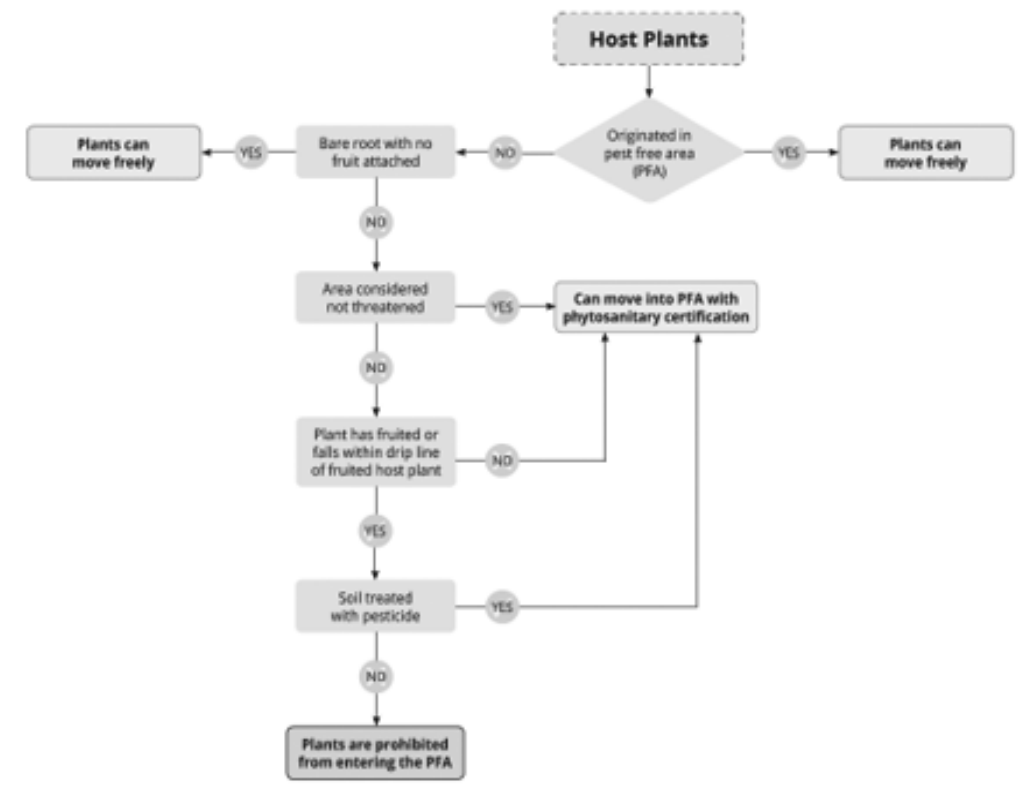
The following remain unregulated under the proposed rule amendment:

Bare root plants (host and nonhost) - it's important to note that host plants cannot have fruit attached (the movement of fruit attached to host plants is already prohibited under WAC 16-470-111);

- Bare root plants (host and nonhost) - it's important to note that host plants cannot have fruit attached (the movement of fruit attached to host plants is already prohibited under WAC 16-470-111);

- Plants (host and nonhost) originating from a pest free area;
- Plants (host and nonhost) moving within the quarantine area; and
- Nonhost plants that were **not** grown in the drip line of fruiting host plants.

The flow charts below illustrate the requirements for businesses transporting host or nonhost plants into a pest free area.



In order to comply with the proposed rule amendment, affected businesses that transport soil or growing medium on host plants and some nonhost plants from the quarantine area, to or through the pest free area, would need to have that shipment certified. This process involves WSDA inspecting the plants prior to shipment. Nurseries have two options - obtain an annual compliance agreement or be subject to individual shipment inspections from WSDA. The compliance agreement would address all steps necessary for the nursery to comply with quarantine regulations and specify how plants may be shipped.

To demonstrate compliance with phytosanitary certification requirements, affected businesses may need to do one or more of the following.

Segregate Plants to Prevent Exposure: To prevent exposure to the drip line of host plants that have fruited, businesses can implement a plant inventory system that tracks whether host plants have fruited, and segregates host plants that have fruited from all other plants.

Obtain "Not Threatened With Infestation" Status: Businesses may choose to obtain 'not threatened with infestation' status. This involves WSDA placing and monitoring apple maggot traps during the apple maggot trapping season and conducting associated lab work to identify any potential apple maggot insects caught. The standard for meeting the "not threatened with infestation" definition requires that no life stage of apple maggot be found within one-half mile of the production site. If one apple maggot is identified in a trap, the nursery is not eligible for this option, and all trapping is discontinued. The "not threatened with infestation" status must be reestablished annually by conducting trapping.

Conduct Soil Treatments: Businesses may choose to treat the soil or growing medium of the host plants (or regulated nonhost plants) with a pesticide treatment approved by the director to control apple maggot pupae. Currently, this is not a viable option, as no pesticide soil drenches have been approved to control apple maggot pupae.

Remove Soil (Ship Bare Root): Businesses may choose to remove all soil (ship bare root) from host plants prior to shipment, exempting them from requirements under this quarantine. If a business chooses to move to a bare root production system in order to comply with the quarantine requirements, it may need to purchase equipment.

Ship Smaller Caliper Plants That Have Not Fruited: Businesses may choose to ship host plants while they are a smaller caliper size prior to fruiting. Although the nursery will still incur certification costs to meet the proposed rule

amendment, it will be able to demonstrate that the plant is too young to fruit.

Prevent Host Plants From Fruiting: Businesses may choose to apply chemical treatments to prevent fruiting. This will allow host plants to be grown to a larger caliper size. An alternative method to applying chemicals to prevent fruiting would be to remove flowers by hand prior to fruit formation.

Ensure Imported Plants Meet Quarantine Requirements: Any business located in a pest free area that imports soil or growing medium on host plants (and nonhost plants under certain circumstances) from a designated apple maggot quarantine area (this may include out-of-state or country), must ensure the plants meet quarantine requirements prior to entry in the pest free area. The business must also request that a phytosanitary certificate from the place of origin accompany the plants. In addition to nurseries, this may affect landscaping companies and orchardists who bring plants in from other areas.

Professional Services Needed: Nurseries that want to prevent fruiting of host plants so that host plants can be grown to a larger caliper and sold as ball & burlap (B&B) or potted², may choose to apply chemical treatments to prevent fruiting. Most nurseries already have staff that are licensed to conduct spraying. However, a few nurseries may have to obtain professional spray services. Custom spraying and chemical treatment is the only potential professional service associated with compliance with the proposed rule amendment.

2 B&B and potted plants both include growing medium on the root system of the plant.

SECTION 2: Identify which businesses are required to comply with the proposed rule using the North American Industry Classification System (NAICS) codes and what the minor cost thresholds are.

Table 2.1: Minor Cost Thresholds

NAICS Code (4, 5 or 6 digit)	NAICS Business Description	Number of Businesses in Washington	±Minor Cost Threshold = 1% of Average Annual Payroll	*Minor Cost Threshold = 0.3% of Average Annual Revenue
111331	Apple orchards	780	\$8,511.33	Data not available
111421	Nursery and tree production	200	\$4,836.69	Data not available
424930	Flower, nursery stock, and florists' supplies merchant wholesalers	94	\$3,966.59	\$7,743.17
444220	Nursery, garden center, and farm supply stores	409	\$3,173.49	\$5,238.89
561730	Landscaping services	3,210	\$1,952.12	\$1,242.18

±Data source: 2018 Quarterly Census of Employment and Wages (Bureau of Labor Statistics)

*Data source: 2012 Economic Census of the United States

SECTION 3: Analyze the probable cost of compliance. Identify the probable costs to comply with the proposed rule, including: Cost of equipment, supplies, labor, professional services and increased administrative costs; and whether compliance with the proposed rule will cause businesses to lose sales or revenue.

In order to collect information on probable costs of compliance, WSU facilitated a focus group meeting and distributed surveys to over two thousand businesses. WSU determined that only thirteen businesses would likely be impacted by the proposed rule amendment based on their responses. However, because of the low response rate of the online surveys, WSU directly contacted by phone an additional fifty

businesses, described in Table 3.3, to obtain more data. More details on the engagement efforts are provided in Section 7.

As described in Section 1, in order to comply with the proposed rule amendment, affected businesses that transport soil or growing medium on host plants and some nonhost plants from the quarantine area, to or through the pest free area, will need to have those plants certified. This process involves WSDA inspecting the plants prior to shipment. Nurseries have two options - either obtaining an annual compliance agreement or individual shipment inspections from WSDA.

Compliance Agreement: State law (chapter 15.13 RCW) requires businesses that sell horticultural plants; or grow, plant, receive, or handle horticultural plants for the purpose of selling or planting for another person, to be licensed by WSDA. Licensed nurseries may enter into written compliance agreements with WSDA agreeing to comply

with stipulated requirements. The compliance agreement addresses all steps necessary for the nursery to comply with quarantine regulations and specifies how plants may be shipped. To ensure that a licensed nursery is able to comply with provisions of a compliance agreement, WSDA will conduct a growing season inspection. If WSDA is able to verify that the nursery can manage its host and nonhost plants in such a way as to avoid infestation, both parties can enter into a compliance agreement.

Individual Shipment Inspections: Nurseries have the option of getting phytosanitary certification for each shipment of plants that fall under the proposed rule amendment. This will involve WSDA travel to/from the nursery or production site, conducting the inspection, and issuing certification documents.

Table 3.1 compares the costs for individual inspections and costs associated with an annual compliance agreement.

Table 3.1: Costs for Certification

Under Annual Compliance Agreement	No Compliance Agreement (Each Shipment Inspected For Quarantine Compliance)
Cost of compliance agreement = \$50 per year \$ 50.00	Cost of plant health certificate for each load (included in price of inspection, if issued at the same time) \$ 0.00
Cost of WSDA inspection = 2 hours at \$50 per hour once a year \$100.00	Cost of inspection = 1 hour minimum per load at \$50 per hour \$ 50.00
Inspector travel time to nursery = assume an average of 100 miles which averages 1.5 hours \$ 75.00	Inspector travel time to nursery = assume an average of 100 miles which averages 1.5 hours \$ 75.00
Inspector travel time from nursery = assume an average of 100 miles which averages 1.5 hours \$ 75.00	Inspector travel time from nursery = assume an average of 100 miles which averages 1.5 hours \$ 75.00
Mileage to nursery = \$0.58 per mile at 100 miles \$ 58.00	Mileage to nursery = \$0.58 per mile at 100 miles \$ 58.00
Mileage from nursery = \$0.58 per mile at 100 miles \$ 58.00	Mileage from nursery = \$0.58 per mile at 100 miles \$ 58.00
Cost of compliance stickers/stamp = \$50 per year for first year, \$10 per year after that \$ 50.00	Cost of plant health documents, if not issued at time of inspection = \$24.50 each
TOTAL \$466.00 per year	\$316.00 per shipment

"Not Threatened With Infestation" Status: If a business chooses to obtain 'not threatened with infestation' status, the nursery will need to pay each season for WSDA to place and monitor apple maggot traps during the apple maggot trapping season (June - September) and conduct associated lab work to identify any potential apple maggot insects caught. The standard for meeting the 'not threatened with infestation' definition requires that no life stage of apple maggot be found within one-half mile of the production site. If one apple maggot is identified in a trap, the nursery is not eligible for this option, and trapping is discontinued immediately.

It typically takes thirty minutes to place or check traps at a site. Traps must be checked between four to eight times

during the trapping season. A minimum of four trap locations must be used in order to certify an area as nonthreatened. Trapping must be done annually for a nursery to maintain its nonthreatened status. Table 3.2 identifies the annual costs associated with 'not threatened with infestation' certification.

Table 3.2: Costs for "Not Threatened with Infestation" Certification

Trap Placement

Staff costs to travel to/from nursery - assume an average of 100 miles each direction 3 hours @ \$50.00 per hour = \$150.00 \$ 150.00

Mileage to/from nursery - assume an average of 100 miles each direction 200 mile @ \$0.58 per mile = \$116.00 \$ 116.00

Staff costs to place traps - assume an average of 30 minutes 0.5 hours @ \$50.00 per hour = \$25.00 \$ 25.00

Trap Monitoring

Average of 6 times per year

Staff costs to travel to/from nursery - assume an average of 100 miles each direction 3 hours @ \$50.00 per hour = \$150.00 \$900.00

Mileage to/from nursery - assume an average of 100 miles each direction 200 mile @ \$0.58 per mile = \$116.00 \$ 696.00

Staff costs to check traps - assume an average of 30 minutes 0.5 hours @ \$50.00 per hour = \$25.00 \$ 150.00

Insect Identification*

Staff costs to identify insects - assume an average of 1 hour 1 hour @ \$50.00 per hour = \$50.00 \$ 50.00

TOTAL \$2,087.00

* If one apple maggot fly is detected, a 'not threatened with infestation' certification is no longer an option.

Cost Impacts to Meet Phytosanitary Certification Requirements:

Segregate Plants to Prevent Exposure: To prevent exposure to the drip line of host plants that have fruited, businesses can implement a plant inventory system that tracks which host plants have fruited or not and segregates host plants from nonhost plants. To do this, a nursery would establish a location-tracking procedure so that host plants are kept separate from nonhosts and fruiting hosts. Based on survey responses, those nurseries that operate orchards or have fruited plants within their operations already practice inventory management techniques and keep the nursery and orchard operations on different sites. They ensure that plants for sale are not within the drip line of mature host plants. The proposed rule amendment may slightly increase recordkeeping requirements for those businesses in the quarantine area that grow apple maggot host plants. Nurseries would have to demonstrate during the certification process that plants were kept separated. Inspectors will ask nurseries to identify those plants that have fruited or have had fruit removed, to verify the lot to be shipped meets quarantine requirements. Inspectors may require documentation, such as a site map, inventory records, or soil treatment records. WSDA expects there will be minimal costs incurred from such a procedural change in the production practices of a nursery.

Conduct Soil Treatments: Businesses may choose to treat the soil or growing medium of the host plants (or regulated nonhost plants) with a pesticide treatment approved by the director to control apple maggot pupae. Businesses would incur the cost of the chemical soil drench and application equipment. The proposed rule amendment may slightly increase recordkeeping requirements for those businesses in the quarantine area that grow apple maggot host plants. Nurseries will need to demonstrate during the certification process

that a chemical approved to control apple maggot pupae in soil was properly applied. Businesses must already maintain pesticide treatment records under state law. This is not currently a viable option, as no pesticide soil drenches have been approved to control apple maggot pupae at this time.

Remove Soil (Ship Bare Root): Businesses may choose to remove all soil (ship bare root) from host plants prior to shipment. If a business chooses to move to a bare root system in order to comply with the quarantine requirements, they may need to acquire tree diggers with U-blades and oscillating shaker arms. They may also need to establish healing beds. Equipment costs to convert a business to bare root exceed the minor cost thresholds identified in Section 2. None of the businesses that responded to the survey expressed an interest in converting from a potted or B&B operation to a bare root system. The discussions always centered on the least burdensome certification process, given current production practices.

Ship Smaller Caliper Plants That Have Not Fruited: Nurseries located in the quarantine area may choose to ship plants while they are a smaller caliper size prior to fruiting. Although, the nursery will still incur certification costs to meet the proposed rule amendment, they will be able to demonstrate that the plant is too young to fruit.

Based on survey responses, potential losses in revenue for nurseries that must move from selling larger to smaller caliper trees (i.e., to trees that have not fruited) was reported as "minimal." Those nurseries operating in the quarantine area stated that they already sell plants prior to fruiting and their plants are not in the drip line of fruited host plants. However, email responses from five nurseries reported that the average revenue might fall by roughly \$10.00 per plant for those typically sold as large caliper or potentially fruited plants.

Orchardists may prefer a larger caliper tree that fits their existing production system. Thus, nurseries in the quarantine area may lose sales to nurseries in the pest free area that can more easily ship larger trees to orchardists in the pest free area. Nurseries may lose revenue because smaller plants sell for less. There may also be extra production costs for orchardists to purchase a smaller/younger tree, as a younger tree would take an extra year to grow to normal size and produce its first fruit.

Apply Chemicals to Prevent Fruiting: According to the WSU survey, shipping a smaller caliper tree was preferred to chemical treatments because the expected \$10.00 loss per plant was preferable to the additional costs for chemical treatments to prevent fruiting. Most businesses are not expected to choose the option of applying chemicals to prevent fruiting because it could inhibit the plants from setting fruit buds in the next season. Some businesses may have to obtain professional spray services if they do not already have staff licensed to apply pesticides.

Impact to Orchardists: The four orchardists interviewed buy their stock bare root, and claim they will not be affected by the regulation. Often fruit tree orchardists order specific varieties of trees on specific rootstocks. This is usually done on contract two years ahead of the sale to guarantee they get the combinations they want. If their normal contract supplier decides not to ship into the pest free area any longer, an orchardist may encounter problems obtaining the planting stock they need.

Impact to Landscapers: Only three landscapers returned calls and emails, but none of them felt the proposed rule amendment would impact their revenues or total costs, unless regulatory costs on the nursery would be passed through to the landscapers. Even then, they thought those costs could be passed through to the final consumers. Some landscapers said they did not see sourcing supplies to be problematic since they only operated within the quarantine area, so no matter where they sourced stock from, it would be permissible within their market area.

Impact to Home and Garden Center Businesses: Operations at home and garden center type nurseries are more varied and less consistent on plant placement and control of fruited trees. The central office of a large home improvement store that operates live plant nurseries stated that some host plants may fruit within their lots but that the stock they buy always comes to their center without fruit. Many large home improvement stores offering nursery stock purchase mostly bare root fruit trees for early spring sale. WSDA has observed fruit on trees in the pest free area in past years and has ordered fruited trees removed from sale. Many of the wholesale nurseries interviewed no longer supply fruit trees to home and garden centers, and most home and garden center stock comes from out of state or from one particular Washington wholesaler that operates within the pest free area.

All wholesale nurseries that responded to the survey did not anticipate any direct changes to their practices. Primary businesses affected in the pest free area were lawn and garden centers. These operations indicated that their potted or B&B stock always comes from out-of-state (quarantined area), or from the pest free area and has not fruited. Orchardists appear to only buy bare root trees and/or grow their own stock in

some cases. Landscapers that were surveyed indicated that they already comply with nursery stock quarantines.

Table 3.3: Business Individually Contacted by Industry and Size

NAICS	Industry Type	Small	Large
111331	Orchards	2	3
111421	Nursery and tree production	26	0
424930	Flower, nursery stock, and florists' supplies merchant wholesalers	2	2
444220	Nursery, garden center, and farm supply stores	0	6
561730	Landscaping services	7	2
Total		37	13

Not all businesses contacted provided input, though some did request additional information. Of the fifty businesses contacted by phone only sixteen (four orchards, five nurseries, two wholesale nurseries, two garden centers, and three landscapers) were willing to discuss their operations. Those businesses were then sent follow-up emails requesting specific data. Tables 3.4 and 3.5, along with the following information, are reflective of the phone interviews and email responses received by Washington State University.

Estimated Costs of Compliance: Table 3.4 outlines the average cost by type of organization and size. These figures include both expected reductions in revenue as well as increases in operating and ownership costs. The orchards, wholesale nurseries, and landscapers spoken with, do not foresee any additional costs to their businesses associated with the proposed rule amendment. The small nursery and tree production businesses thought lost revenues and other costs of compliance would exceed \$1,000 in some cases and be as low as \$466 (only incurring the compliance agreement costs with WSDA). No large nurseries provided cost figures. The nursery and garden centers interviewed were all large and universally said the only costs expected would be the \$466 compliance agreement costs with WSDA. Table 3.5 shows the range of expected costs associated with the average costs in Table 3.4³. Lower-bound costs are capped at zero but are typically captured as one standard deviation below the mean. Upper-bound expected costs are assumed to be one standard deviation above the mean. Though some businesses expect their costs to exceed our upper-bound range, such measures cannot be reasonably assumed to apply to all businesses in the industry. Making such an assumption would cause sector wide impacts to be greatly overstated.

3 The range is calculated as one standard deviation in each direction from the mean reported in Table 3.3.

Table 3.4: Average Expected Costs of Sales and Revenue Reduction by Industry and Size

NAICS	Industry Type	Small	Large
111331	Orchards	\$0	\$0
111421	Nursery and tree production	\$700	\$0

NAICS	Industry Type	Small	Large
424930	Flower, nursery stock, and florists' supplies merchant wholesalers	\$0	\$0
444220	Nursery, garden center, and farm supply stores	\$0	\$466
561730	Landscaping services	\$0	\$0

Table 3.5: Range of Expected Costs of Compliance and Revenue Reduction by Industry

NAICS	Industry Type	Lower Bound	Average	Upper Bound
111331	Orchards	\$0	\$0	\$0
111421	Nursery and tree production	\$480	\$700	\$920
424930	Flower, nursery stock, and florists' supplies merchant wholesalers	\$0	\$0	\$0
444220	Nursery, garden center, and farm supply stores	\$466	\$466	\$466
561730	Landscaping services	\$0	\$0	\$0

Potential Economic Impacts to the Apple Industry if Apple Maggot Continues to Spread: In October of 2018, Gallardo et. al. published a paper in the journal HortTechnology wherein they expanded upon the work of a pest risk analysis (PRA) in Washington state. While the PRA focused on the biological containment methods and recommended heat treatment of green waste that was to be shipped into pest free areas, Gallardo et. al. focused on the economic impacts likely to occur if apple maggot becomes established in the pest free area. The article looks at the *additional* production costs from spraying, cold storage, etc., associated with apple maggot control. Costs incurred regardless of apple maggot presence, such as the cold storage required for shipment to Mexico, are not included. Mexico requires all Washington sourced apples to be held in cold storage.

Because the treatment of codling moth and apple maggot are similar, a high presence of codling moth effectively reduces the treatment costs for dealing with apple maggot. Impacts from a complete quarantine of the entire state were then calculated under low, moderate, and high levels of codling moth pressure. Impacts were calculated to be losses of \$546.9 million, \$557.2 million, and \$509.78 million per year respectively. Reported impact losses were inclusive of the indirect and induced effects, meaning that the total impacts would not be felt by the apple production and processing sector alone, but would ultimately harm chemical and fertilizer companies, equipment and capital investments, nurseries, and a host of other suppliers that are backwards linked in the apple industry supply chain. Direct effects included the losses to the apple production and processing sectors. Indirect effects would have captured the impacts on the nurseries and other suppliers of the apple growing segment of the market. And, induced effects would capture the reduction in spending stemming from the lower incomes received by employees.

Statewide Impacts from Classifying Growing Media as a Regulated Commodity: In order to calculate the impacts

statewide, the average costs of compliance (see Table 3.4) must be multiplied by the number of businesses that will be affected (see Table 4.1). Multiplying the \$700 per business impact by the two hundred twelve businesses yields the \$148,400 in direct costs for the entire nursery and tree production industry. Multiplying the \$466 per business impact by the three hundred sixty-seven nursery and garden center and farm supply stores yields the \$171,022 in direct costs for the entire industry. Thus, direct impacts totaled \$319,422 for both of these industries combined. Table 3.6 shows the sales impacts by NAICS code and effect.

Table 3.6: Sales Impacts by Industry and Effect

	Direct	Indirect	Induced	Total
Nursery and tree production	\$148,400	\$4,967	\$72	\$153,439
Nursery, garden center, and farm supply stores	\$171,022	\$116	\$2,039	\$173,177
Other industries	\$0	\$94,854	\$249,375	\$344,230
Total	\$319,422	\$99,937	\$251,486	\$670,845

Total direct impacts to the whole nursery industry from classifying host plant growing media as a regulated commodity is estimated to be \$319,422. Direct employment impacts an estimated total of three jobs. Conversely, according to Gallardo et. al. (2018), total direct losses in overall statewide economic activity, if the apple maggot infestation were to spread to all areas of the state, may be as high as \$260 million with total losses in transactions reaching \$557.2 million. Gallardo et. al. (2018) did not report impacts by employment. However, if employment to sales ratios were held constant, total job losses would approach 5,400 jobs.

Total direct impacts under the lower bound scenario amount to \$272,782. Under the upper bound scenario direct impacts sum to \$366,062. Even under the upper bound scenario, total reductions in economic activity are smaller than the expected costs associated with the spread of apple maggot.

SECTION 4: Analyze whether the proposed rule may impose more than minor costs on businesses in the industry.

No large retail nurseries of the type categorized by NAICS 111421 have been identified through the Census Bureau's County Business Pattern (CBP) data, nor through the several surveys and interviews conducted by WSU. That is not to say these businesses don't exist, but they have not been captured by the data set. The minimum cost thresholds reported in Section 2 of this SBEIS are used for the small retail nurseries. The retail home and garden centers are identified in the CBP data by employment size. CBP data was used to identify the minimum cost thresholds by size for industry 444220. Table 4.1 shows the minimum cost thresholds for small retail nurseries, small home and garden nurseries, and large home and garden nurseries. Table 4.1 also includes the expected average costs and revenue reductions for the associated industries by size. In each case the expected costs and revenue reductions are less than the minor cost thresholds when calculated as 1% of reported average annual payroll for the associated industries by size. Since the

orchards, landscaping companies, and wholesale nurseries have reported no expected changes in costs or revenues these figures have been left off the table.

Table 4.1: Average Expected Cost Increases and Revenue Reductions by Industry Type Relative to Average Annual Payroll

NAICS	Industry Type	Business Scale	Number of Firms	Average Annual Payroll	Minor Cost Threshold*	Average Expected Cost and Revenue Reduction
111421	Nursery and tree production	Small	212	\$483,669	\$4,837	\$700
111421	Nursery and tree production	Large**	0	\$0	\$0	\$0
444220	Nursery, garden center, and farm supply stores	Small	350	\$237,054	\$2,371	\$466
444220	Nursery, garden center, and farm supply stores	Large	17	\$1,564,000	\$15,640	\$466

Sources: BLS QCEW, Census Bureau CBP

*Minor cost thresholds calculated as 1% of average annual payroll.

**No large businesses of this type have been identified through the CBP data, nor through surveys and interviews conducted by WSU.

If a nursery and tree production business decided to obtain "not threatened with infestation" certification, the expected cost is approximately \$2,553.00 (\$2,087 to obtain "not threatened with infestation" status plus \$466 for a compliance agreement) per year. This is below the minor cost threshold identified above.

Although none of the nursery and tree production businesses surveyed expressed an interest in converting to bare root, if a business decided to convert to bare root in order to comply with the proposed rule amendment, the costs are expected to exceed the minor cost threshold identified above.

SECTION 5: Determine whether the proposed rule may have a disproportionate impact on small businesses as compared to the ten percent of businesses that are the largest businesses required to comply with the proposed rule.

RCW 19.85.040(1) requires the department to compare the cost of compliance for small businesses with the cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the proposed rules using one or more of the following as a basis for comparing costs: (a) Cost per employee; (b) cost per hour of labor; or (c) cost per one hundred dollars of sales. Though several businesses were willing to discuss the proposed rule amendment and how they anticipate it would affect them, few were willing to provide data on their operations and associated costs. Due to this and the low response rate from the surveys, there is not sufficient data to calculate this comparison using the criteria from RCW 19.85.040(1).

Analyzing the information collected from large and small businesses, there is indication that both will see similar cost increases as a result of the proposed rule. This is mainly due to costs associated with WSDA's certification fee. The large and small orchards and landscaping businesses which were surveyed and interviewed, reported that they were already in compliance with the proposed rule (e.g. only bare root sales) and therefore would not be impacted cost wise. This was also the case for large wholesale nurseries, although they may incur additional certification costs. Many small nurseries also reported they were already in compliance with the proposed rule, however like the large nurseries, they would likely incur additional certification costs. It is esti-

mated that a handful of small nurseries will likely have expenses beyond the certification costs.

Costs to businesses may vary by industry, as shown in Table 4.1. Rows one and two of this table show costs for businesses in the industry of "Nursery and Tree Production." Only small businesses were identified under this industry type, as no large businesses were found under the CBP data, nor in the surveys and interviews conducted by WSU. Small businesses under this industry type are expected to experience an average cost and revenue reduction of \$700. Since no large businesses are listed under this industry type, it is concluded that small businesses will be disproportionately impacted by the proposed rule. Additionally, rows three and four in Table 4.1 show the average expected cost and revenue reduction for businesses under the industry type of "Nursery, garden center, and farm supply stores." Under this industry type, small and large businesses will experience an equal cost increase of \$466. Since small and large businesses will see the same cost increase, the impact to small businesses is considered to be disproportionate. However, costs associated with the proposed rule will not exceed the minor cost threshold for either of these industries.

SECTION 6: If the proposed rule has a disproportionate impact on small businesses, identify the steps taken to reduce the costs of the rule on small businesses. If the costs cannot be reduced provide a clear explanation of why.

RCW 19.85.030(2) requires consideration of the following methods of reducing the impact of the proposed amendment on small businesses:

(a) *Reducing, modifying, or eliminating substantive regulatory requirements* - Any reduction, modification, or elimination of the regulatory requirements of the proposed rule amendment could increase the risk of the entry of apple maggot into the pest free area, according to the findings of the PRA. Businesses still have the option of selling and importing bare root host plants without fruit attached, with no restrictions under the apple maggot quarantine.

(b) *Simplifying, reducing, or eliminating recordkeeping and reporting requirements* - The proposed rule amendment does not specify any reporting requirements for small businesses beyond what requirements are already in place. The

proposed rule amendment may slightly increase recordkeeping requirements for those businesses in the quarantine area that grow apple maggot host plants. Nurseries may choose to implement tracking procedures to keep host plants that have fruited separate from other plants. Nurseries will need to demonstrate during the certification process that plants were kept separated. Inspectors will ask nurseries to identify those plants that have fruited or have had fruit removed, to verify the lot to be shipped meets quarantine requirements. They may require documentation, such as a site map, inventory records, or soil treatment records. Businesses must already maintain pesticide treatment records under state law. Eliminating this requirement would undermine the effectiveness of the quarantine.

(c) Reducing the frequency of inspections - Businesses that transport soil or growing medium on host plants (and nonhost plants under certain circumstances) from the quarantine area, to or through the pest free area will need to have those plants certified. This process involves WSDA inspecting and certifying the plants prior to shipment.

In order to reduce costs to impacted businesses, WSDA will offer, under certain circumstances, the option of applying for a compliance agreement. A business approved under a compliance agreement ensures and attests that soil or growing medium from host plants that have fruited, and from host or nonhost plants grown within the drip line of host plants that have fruited, will not be shipped into or through the pest free area. Under this agreement, WSDA will conduct an inspection each growing season to verify the business is complying with the requirements of the compliance agreement and quarantine. The cost of the compliance agreement is \$50.00 annually for licensed nurseries. Table 3.1 provides an example of the savings under a compliance agreement versus individual inspections which would otherwise be required for each shipment.

Under WAC 16-401-027, licensed nurseries within the state are provided up to four hours of free inspection annually depending on license type. This will usually be sufficient to conduct an annual growing season inspection. In order to further decrease costs to impacted businesses, WSDA often combines audits and inspections of nearby businesses so that mileage and drive time costs are prorated between businesses. Often nurseries already have compliance agreements in place for other regulatory plant health concerns. When this is the case, WSDA hopes to combine an inspection with those required for other compliance agreements. This would further mitigate costs for affected nurseries.

(d) Delaying compliance timetables - Delaying compliance timetables is not a viable mitigation measure. Any delay will result in a higher risk for the entry of apple maggot into the pest free area. By delaying compliance timetables, apple maggot will have greater opportunity to spread into the pest free area.

(e) Reducing or modifying fine schedules for noncompliance - RCW 17.24.141 specifies the penalty for violating a quarantine order. Chapter 16-470 WAC does not address penalties for violations of the apple maggot quarantine. Reducing or modifying fine schedules would involve a legislative change and is not part of this rule making.

(f) Any other mitigation techniques including those suggested by small businesses or small business advocates - No other mitigation techniques were presented to us by small businesses or small business advocates during the focus group meeting or surveys and meetings with stakeholders.

SECTION 7: Describe how small businesses were involved in the development of the proposed rule.

On July 17, 2017, WSTFA petitioned WSDA to add potted trees to the list of regulated commodities under the apple maggot quarantine. WSTFA represents both small and large businesses that grow fruit susceptible to the apple maggot. After receiving the petition for rule making, WSDA met with our advisory committee, the Apple Maggot Working Group (AMWG), multiple times to discuss the petition. The AMWG agreed that it was critical to protect the apple industry by adding soil on apple maggot host plants (and nonhost plants under certain circumstances) to the list of regulated commodities. The AMWG includes members from the tree fruit industry, researchers, federal regulators, county extension, and WSDA. These members represent and speak for memberships that include small businesses.

In order to obtain the information needed to determine the probable costs of compliance, WSU conducted a focus group meeting, emailed surveys, and conducted interviews. In November 2018, WSU contacted and invited several nursery representatives to participate in a focus group meeting. The goal of the focus group meeting was to seek input about the major cost categories required to operate a tree nursery as well as participant perspectives on how the proposed rule amendment will affect their normal flow of operations, including costs. WSU conducted the meeting at the WSTFA annual meeting in Yakima on December 4, 2018; with two nursery representatives (out of four who initially confirmed) and received minimal feedback from the participants.

Since minimal feedback was received, WSU developed a survey that was sent out to the two hundred eighteen members of the Washington state nursery and landscape association (WSNLA). WSNLA distributed the survey through their email listserv. WSNLA also assisted in following up with their members weekly, to give a reminder or encourage participation in the survey. As of April 1, 2019, the survey was completed but, again, with minimal response.

WSU sent out a revised survey, this time broadening the sample to include as many nursery operations in Washington as possible. WSDA provided a list of licensed wholesale and retail nursery businesses. In addition, WSDA revised the wording used in the survey. From the list that WSDA provided, WSU sent the survey to two thousand eighty-seven businesses that had provided email addresses with their nursery license application using Qualtrics™. In an attempt to obtain a reasonable response rate, WSU sent the survey three times: (1) May 23-30; (2) May 31-June 6; and (3) June 7-13. WSU kept the survey open for a few extra days and the last survey was received on June 16, 2019. Of the two thousand eighty-seven businesses contacted, four hundred forty-four responses were submitted but only thirteen surveys were submitted by nurseries who would be impacted by the rule and fully completed.

Because of the lack of data provided by the online surveys, WSU made a final attempt and directly contacted an

additional fifty businesses to collect data regarding increasing costs and potential losses in sales and revenue due to the proposed rule amendment regarding Washington's apple maggot quarantine and the regulation of host plant growing media. Table 3.3 shows the businesses surveyed by type and size. Response rates continued to be low. Though several nurseries, landscapers, and orchardists were willing to discuss the proposed rule amendment and how they anticipate it would affect their businesses, few were willing to provide data on their operations. Many of the large wholesale nurseries felt the regulation would not apply to them because they were in the pest free area and/or were already bare rooting their stock. Several of the smaller nurseries, whether in the pest free or quarantine area, felt their primary cost of compliance would be WSDA certification because they already sold their trees prior to fruiting. Table 3.1 shows the WSDA certification costs.

None of the business sizes were known prior to the phone interviews and so there was no difference in how small or large businesses were handled from a data collection standpoint. Because the Impact Model is based on industries, all businesses within a given industry are assumed to have the same production technology and thus similar assumptions were made regarding multiplier effects.

Representatives of the WSNLA were included in all of the communication and notifications that were distributed regarding the proposed rule amendments. Small businesses were involved in the rule-making process through several industry meetings that took place over the past year and a half. Nursery stakeholders attended the following meetings:

On June 29, 2017, the addition of soil to the apple maggot quarantine was discussed with nursery owners from Washington, Oregon, and California.

On September 26, 2017, WSDA presented on the possibility of adding soil to the apple maggot quarantine rule in a meeting with the WSDA fruit tree advisory committee.

On October 19, 2017, WSDA presented at a WSDA nursery advisory committee meeting about the possible addition of soil to the apple maggot quarantine.

On October 26, 2017, the addition of soil to the apple maggot quarantine was discussed during the Western State and Canada Standardization Meeting regarding Plants and Nurseries.

On November 15, 2017, WSDA distributed the CR-101 regarding the amendments to the rule to a group of known stakeholders who would be interested in providing feedback on the development of the rule and any other measures that would mitigate the transport of apple maggot pupae in soil.

On December 19, 2017, the Capital Press published an article regarding the proposed expansion of the quarantine to include soil.

On June 5, 2018, WSDA sent a draft of the proposed rule language to stakeholders, seeking review and feedback.

The June 26, 2017, fruit tree advisory committee meeting and the June 29, 2019, and October 19, 2018, nursery advisory committee meetings included discussions of the proposed rule amendments.

SECTION 8: Identify the estimated number of jobs that will be created or lost as the result of compliance with the proposed rule.

In order to convert dollar impacts into jobs, a conversion in the input-output model is made by taking each industry's employment and dividing it by their total sales. This jobs-to-sales ratio, by industry, is then multiplied by the associated sales impacts. Because the impacts from Table 3.6 represent such a small component of the economy it is not surprising that the employment impacts are similarly small. Table 8.1 shows the employment impacts by industry and effect. Direct employment is only expected to decline by three full time equivalent jobs.

Table 8.1: Employment Impacts by Industry and Effect

	Direct	Indirect	Induced	Total
Nursery and tree production	2	0	0	2
Nursery, garden center, and farm supply stores	1	0	0	1
Other Industries	0	1	2	2
Total	3	1	2	5

References

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WSU Extension. (n.d.). *Apples in Washington State*. Retrieved from Washington State University Extension: https://extension.wsu.edu/chelan-douglas/agriculture/treefruit/horticulture/apples_in_washington_state/

WSU IMPACT Center. (2019). *Technical Memorandum of: Chapter 16-470 WAC Quarantine - Agricultural Pests*. Pullman: Washington State University's IMPACT Center.

A copy of the statement may be obtained by contacting Gloriann Robinson, Agency Rules Coordinator, P.O. Box 42560, Olympia, WA 98504-2560, phone 360-902-1802, fax 360-902-2092, TTY 800-833-6388, email wsdarulescommnts@agr.wa.gov.

April 1, 2020
 Brad White
 Assistant Director

AMENDATORY SECTION (Amending WSR 16-24-028, filed 11/30/16, effective 1/1/17)

WAC 16-470-101 Establishing quarantines for apple maggot and plum curculio. Apple maggot (*Rhagoletis pomonella*) and plum curculio (*Conotrachelus nenuphar*) are insects with a larval (worm) stage that develops within fruit. These insects are capable of attacking many fruit crops grown in Washington. Apple maggot is not established in significant portions of the major fruit production areas east of the Cascade Mountains, and plum curculio is not established anywhere in the state. An increased range for either insect would cause decreased environmental quality and economic loss to

the agricultural industries of the state by increasing production inputs and jeopardizing foreign and domestic markets.

(1) The director, pursuant to chapter 17.24 RCW, has determined that the regulation and/or exclusion of fresh fruits grown or originating from areas infested with apple maggot or plum curculio is necessary to protect the environment and agricultural crops of the state.

(2) The director, pursuant to chapter 17.24 RCW, has determined that municipal solid waste originating from areas infested with apple maggot is a host medium for apple maggot and is a "regulated commodity" as provided in WAC 16-470-111. The exclusion of such municipal solid waste from the pest free area is necessary to protect the environment and agricultural crops of the state. The transport into and disposition of such municipal solid waste in the pest free area may be allowed by a special permit as provided in WAC 16-470-124(1).

(3) The director, pursuant to chapter 17.24 RCW, has determined that yard debris, organic feedstocks, organic materials, and agricultural wastes as defined in WAC 173-350-100 originating from areas infested with apple maggot is a host medium for apple maggot and is a "regulated commodity" as provided in WAC 16-470-111. The exclusion of such waste from the pest free area is necessary to protect the environment and agricultural crops of the state. The transport into and disposition of yard debris, organic feedstocks, organic materials, and agricultural wastes in the pest free area may be allowed by a special permit as provided in WAC 16-470-124(2).

(4) The director, pursuant to chapter 17.24 RCW, has determined that soil and growing medium in pots or on root balls of host plants or any plants (host or nonhost) that were within the drip line of host plants that have produced fruit, originating from areas infested with apple maggot are a host medium for apple maggot and are "regulated commodities" as provided in WAC 16-470-111. The exclusion of such soil or growing medium from the pest free area is necessary to protect the environment and agricultural crops of the state. The transport of such soil or growing medium into the pest free area may be allowed if accompanied by an official inspection certificate issued by the plant protection organization of the state of origin as provided in WAC 16-470-113 and 16-470-115.

AMENDATORY SECTION (Amending WSR 05-09-005, filed 4/7/05, effective 8/15/05)

WAC 16-470-103 Definitions. The following definitions shall apply to WAC 16-470-101 through 16-470-130:

(1) "Established" means present in a country, state, county or other area, multiplying and expected to continue.

(2) "Host plant" means all species in the genera of Malus, Crataegus, Prunus, Pyrus and Cydonia (including, but not limited to, apples, crab apples, hawthorn, cherries, plums, prunes, pears, and quince).

(3) "Soil" and "growing medium" as regulated commodities means only that soil or growing medium in pots or on root balls of plants originating from a quarantined area being shipped under this quarantine.

(4) "Threatened with infestation" means that any life stage of apple maggot or plum curculio has been found within one-half mile of an orchard or other production site, including any portion of an orchard outside or beyond the one-half mile area. Orchards or production sites in a quarantined area, which are not surveyed by a plant protection organization, are considered to be threatened with infestation. An orchard or other production site will be removed from threatened with infestation status, if control measures are performed at the detection site, and survey by the department shows no further detection(s) within the one-half mile area around the orchard or other production site throughout the subsequent full growing season.

AMENDATORY SECTION (Amending WSR 16-24-028, filed 11/30/16, effective 1/1/17)

WAC 16-470-111 Commodities regulated for apple maggot. (1) All fresh fruit of apple (including crab apple), cherry (except cherries that are commercial fruit), hawthorn (haw), pear (except pears that are commercial fruit from California, Idaho, Oregon, Utah, and Washington), plum, prune, and quince are regulated under quarantine for apple maggot. Fresh fruit also includes fruit attached to host plants.

(2) Municipal solid waste as defined in WAC 173-350-100 is regulated under quarantine for apple maggot. Municipal solid waste from the quarantine area is a host medium for apple maggot containing or likely to contain those fruits listed under subsection (1) of this section.

(3) Yard debris, organic feedstocks, organic materials, and agricultural wastes as defined in WAC 173-350-100 are regulated under quarantine for apple maggot. Yard debris, organic feedstocks, organic materials, and agricultural wastes from quarantine areas are host mediums for apple maggot containing or likely to contain those fruits listed under subsection (1) of this section.

(4) Soil or growing medium in pots or on root balls of host plants originating from a quarantined area are regulated commodities under quarantine for apple maggot.

(5) Soil or growing medium in pots or on root balls of nonhost plants that fall within the drip line of host plants that have produced fruit originating from a quarantined area are regulated commodities under quarantine for apple maggot.

(6) Any host plants shipped bare root and without fruit attached are not regulated commodities under quarantine for apple maggot.

(7) Soil or growing medium in pots or on root balls of plants originating in the pest free area, as specified in WAC 16-470-105(1), are not regulated commodities under quarantine for apple maggot.

AMENDATORY SECTION (Amending WSR 16-24-028, filed 11/30/16, effective 1/1/17)

WAC 16-470-113 Requirements to ship commodities regulated for apple maggot from a state under quarantine into the pest free area for apple maggot. (1) Shipment of fresh fruit, as specified in WAC 16-470-111(1), from an area under quarantine, as specified in WAC 16-470-105(3), into the pest free area for apple maggot, as specified in WAC 16-

470-105(1), is prohibited, unless at least one of the following conditions is met:

~~((H))~~ (a) The shipment is accompanied by an official certificate issued by the plant protection organization of the state of origin ~~((evidencing))~~ stating at least one of the following:

~~((a))~~ (i) The shipment is composed of apples, which has undergone cold treatment for a continuous period of at least ninety days. During this ninety days, the temperature within the storage room must be maintained at thirty-seven and nine-tenths degrees Fahrenheit or less.

~~((b))~~ (ii) The shipment is composed of fresh fruit specified in WAC 16-470-111(1) other than apples, which has undergone cold treatment for a continuous period of forty days or more. During this forty days, the temperature within the storage room must be maintained at thirty-two degrees Fahrenheit or less.

~~((c))~~ (iii) The shipment is composed of fresh fruit specified in WAC 16-470-111(1) from Oregon, Idaho, or Utah, meeting the requirements under WAC 16-470-122.

~~((d))~~ (iv) Each lot or shipment consists of repacked fruit, which was grown outside the area under quarantine and has been identified and maintained separately from any fruit specified in WAC 16-470-111(1) grown within the area under quarantine. For repacked fruit, the certificate must show the following information:

~~((i))~~ (A) The state in which the fruit was grown;

~~((ii))~~ (B) The point of repacking and reshipment;

~~((iii))~~ (C) The amount and kind of commodities comprising the lot or shipment; and

~~((iv))~~ (D) The names and addresses of the shipper and consignee.

~~((2))~~ (b) The fruit originated outside the area under quarantine for apple maggot and is a reshipment in original, unopened containers. The containers must each bear labels or other identifying marks ~~((evidencing))~~ stating origin outside the area under quarantine.

~~((3))~~ (c) The fruit is frozen solid.

(2) The shipment of soil or growing medium in pots or on root balls of host plants from the area under quarantine, as specified in WAC 16-470-105(3), into the pest free area for apple maggot, as specified in WAC 16-470-105(1), is prohibited unless accompanied by a certificate issued by the plant protection organization of the state of origin stating the following:

(a) The soil or growing medium supports host plants that have not produced fruit, and did not fall within the drip line of host plants that have produced fruit; or

(b) The host plants originated in an area where apple maggot is not considered established, based on official survey and were grown in a commercial nursery; or

(c) The soil or growing medium of the plants has been treated with a pesticide treatment approved by the director just prior to shipment and was safeguarded from reinfestation.

(3) The shipment of soil or growing medium in pots and on root balls of nonhost plants that were grown within the drip line of host plants that have produced fruit, may only be shipped from the area under quarantine, as specified in WAC 16-470-105(3), to the pest free area for apple maggot, as

specified in WAC 16-470-105(1), if accompanied by a certificate issued by the plant protection organization of the state of origin stating the following:

(a) The nonhost plants originated in an area where apple maggot is not considered established, based on official survey, and were grown in a commercial nursery; or

(b) The soil or growing medium of the plants has been treated with a pesticide treatment approved by the director just prior to shipment and was safeguarded from reinfestation.

AMENDATORY SECTION (Amending WSR 16-24-028, filed 11/30/16, effective 1/1/17)

WAC 16-470-115 Requirements for shipment of regulated commodities from the quarantine area for apple maggot into the pest free area within Washington state. Shipment of regulated commodities, as specified in WAC 16-470-111, from an area under quarantine, as specified in WAC 16-470-105(2), into the pest free area for apple maggot, as specified in WAC 16-470-105(1), is prohibited, unless one of the following applicable conditions is met:

(1) The shipment of fresh fruit is accompanied by a permit for movement of fruit issued by the department verifying one of the following:

(a) The fresh fruit came from orchards and production sites that are not threatened with infestation; or

(b) The fresh fruit has completed treatment as specified in WAC 16-470-118(3). If records of treatment verifying compliance with conditions specified in WAC 16-470-118(3) are made available to the department, no reinspection is required by the department.

(2) The shipment of fresh fruit is in compliance with the applicable conditions under WAC 16-470-118 (2) and (3).

(3) The shipment of municipal solid waste from the quarantine area to the pest free area for purposes of disposal in a municipal solid waste landfill or appropriate disposal or treatment facility is accompanied by a special permit issued by the department as provided in WAC 16-470-124(1).

(4) The shipment of yard debris, organic feedstocks, organic materials, or agricultural wastes from the quarantine area to the pest free area for purposes of disposal in a municipal solid waste landfill or appropriate treatment or composting facility is accompanied by a special permit issued by the department as provided in WAC 16-470-124(2).

(5) The shipment of soil or growing medium in pots or on root balls of host plants is accompanied by either an official phytosanitary certificate or inspection tag associated with a compliance agreement issued by the department stating the following:

(a) The soil or growing medium supports host plants that have not produced fruit and did not fall within the drip line of host plants that have produced fruit; or

(b) The soil or growing medium supports host plants that were grown in a commercial nursery and the production site is not considered threatened with infestation as defined in WAC 16-470-103(4); or

(c) The soil or growing medium of the host plants has been treated with a pesticide treatment approved by the director just prior to shipment and safeguarded from reinfestation.

(6) The shipment of soil or growing medium in pots or on root balls of nonhost plants that were grown within the drip line of host plants that have produced fruit is accompanied by either an official phytosanitary certificate or inspection tag associated with a compliance agreement issued by the department stating the following:

(a) The soil or growing medium supports nonhost plants that were grown in a commercial nursery and the production site is not considered threatened with infestation as defined in WAC 16-470-103(4); or

(b) The soil or growing medium of the nonhost plants has been treated with a pesticide treatment approved by the director just prior to shipment and safeguarded from reinfestation.

(7) Phytosanitary certificates and inspection tags associated with a compliance agreement described in subsections (5) and (6) of this section shall be issued by the department in accordance with chapters 16-401 WAC and 15.13 RCW.

(8) Fees for inspection services related to the issuance of phytosanitary certificates, inspection tags associated with a compliance agreement, and requests to remove threatened with infestation status, shall be charged in accordance with WAC 16-401-027.

WSR 20-09-014

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed April 3, 2020, 10:52 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-15-146.

Title of Rule and Other Identifying Information: WAC 182-501-0215 Wraparound with intensive services (WISe).

Hearing Location(s): On May 26, 2020, at 10:00 a.m., at the Health Care Authority (HCA), Cherry Street Plaza, Sue Crystal Room 106A, 626 8th Avenue, Olympia, WA 98504. Metered public parking is available street side around building. A map is available at <https://www.hca.wa.gov/assets/program/Driving-parking-checkin-instructions.pdf> or directions can be obtained by calling 360-725-1000.

Date of Intended Adoption: Not sooner than May 27, 2020.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by May 26, 2020.

Assistance for Persons with Disabilities: Contact Amber Loughheed, phone 360-725-1349, fax 360-586-9727, telecommunication relay services 711, email amber.loughheed@hca.wa.gov, by May 15, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is required to comply with, and provide ongoing guidance related to, the requirements that ensure the quality of the WISe delivery model.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Valerie Freudenstein, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1344; Implementation and Enforcement: Tina Burrell, P.O. Box 42730, Olympia, WA 98504-2730, 360-725-9409.

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.

Explanation of exemptions: RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule does not impose additional costs on businesses.

April 3, 2020

Wendy Barcus

Rules Coordinator

NEW SECTION

WAC 182-501-0215 Wraparound with intensive services (WISe). (1) Wraparound with intensive services (WISe) is a service delivery model that provides comprehensive behavioral health covered services and support to:

(a) Medicaid-eligible clients age twenty or younger with complex behavioral health needs; and

(b) Their families.

(2) The authority, the managed care organizations, and the WISe provider agencies must use, continue to use, and substantially comply with the WISe quality plan (WISe QP) for the delivery of WISe. The purpose of the WISe QP is to:

(a) Provide a framework for quality management goals, objectives, processes, tools, and resources to measure the implementation and success of the WISe service delivery model; and

(b) Guide production, dissemination, and use of measures used to inform and improve WISe service delivery.

(3) The WISe QP, as may be amended from time to time, is incorporated by reference and is available online at <https://www.hca.wa.gov/billers-providers-partners/behavioral-health-recovery/wraparound-intensive-services-wise>.

WSR 20-09-032

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed April 7, 2020, 10:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-20-106.

Title of Rule and Other Identifying Information: WAC 182-550-8000 Hospital safety net assessment (HSNA) pro-

gram—Purpose, and 182-550-8100 Assessment notices—Process and timelines.

Hearing Location(s): On May 26, 2020, at 10:00 a.m., at the Health Care Authority (HCA), Cherry Street Plaza, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504. Metered public parking is available street side around building. A map is available at <https://www.hca.wa.gov/assets/program/Driving-parking-checkin-instructions.pdf> or directions can be obtained by calling 360-725-1000.

Date of Intended Adoption: Not sooner than May 27, 2020.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by May 26, 2020.

Assistance for Persons with Disabilities: Contact Amber Lougheed, phone 360-725-1349, fax 360-586-9727, telecommunication relay services 711, email amber.lougheed@hca.wa.gov, by May 15, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is establishing rules for the hospital safety net assessment program. The proposed rules:

- Describe the payment due date and the notifications sent out by the agency.
- Describe how and when the agency offsets amounts from scheduled payments to a hospital when that hospital has not timely paid its assessment.
- Establish a process to appeal the agency's action to offset amounts from scheduled payments.

Reasons Supporting Proposal: This rule making is authorized by RCW 74.60.050.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, 74.60.050.

Statute Being Implemented: RCW 41.05.021, 41.05.160; chapter 74.60 RCW.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Melinda Froud, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1408; Implementation and Enforcement: Clinton Fridley, P.O. Box 45510, Olympia, WA 98504-5510, 360-725-1577.

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. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

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

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

April 7, 2020
Wendy Barcus
Rules Coordinator

NEW SECTION

WAC 182-550-8000 Hospital safety net assessment (HSNA) program—Purpose. Chapter 74.60 RCW establishes the hospital safety net assessment (HSNA) program. The HSNA program imposes an assessment on certain Washington state hospitals that is used solely to increase funding from all other sources and support additional payments to hospitals for authorized medicaid services. The medicaid agency has authority to issue rules associated with the HSNA program under RCW 41.05.021 (1)(m)(iv) and 74.60.050(1).

NEW SECTION

WAC 182-550-8100 Assessment notices—Process and timelines. (1) **Notification.** The medicaid agency sends hospital safety net assessment (HSNA) notices on or about thirty calendar days prior to the end of each quarter as required by RCW 74.60.030 (1)(a).

(2) **Payment due date.** Each hospital must pay its assessment in full by the due date listed in the HSNA notice.

(3) **First past-due notification.** If a hospital does not pay its HSNA assessment in full by the due date, the agency sends the hospital a past-due notice. The past-due notice informs the hospital of the actions the agency may take if the hospital's assessment becomes ninety calendar days past due.

(4) **Final past-due notification.** If a hospital does not pay its assessment in full within ninety calendar days of its due date stated in the HSNA notice, the agency sends the hospital a final past-due notice.

(a) The final past-due notice informs the hospital of the actions the agency takes, as required by RCW 74.60.050(2), to offset funds from the agency's scheduled payments to the hospital.

(b) The agency does not offset funds from managed care capitation payments, as described in RCW 74.60.130.

(5) **Appeal.** A hospital may appeal the actions the agency takes to offset funds by following the process outlined in WAC 182-502-0050.

WSR 20-09-033

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed April 7, 2020, 10:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-17-057.

Title of Rule and Other Identifying Information: WAC 182-509-0300 Modified adjusted gross income (MAGI), 182-509-0320 MAGI income—Noncountable income, 182-509-0335 MAGI income—Educational benefits, 182-509-0345 MAGI income—Income from employment and training programs, 182-509-0350 MAGI income—Needs-based assistance from other agencies or organizations, and 182-509-0355 MAGI income—Gifts and inheritances.

Hearing Location(s): On May 26, 2020, at 10:00 a.m., at the Health Care Authority (HCA), Cherry Street Plaza, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia,

WA 98504. Metered public parking is available street side around building. A map is available at <https://www.hca.wa.gov/assets/program/Driving-parking-checkin-instructions.pdf> or directions can be obtained by calling 360-725-1000.

Date of Intended Adoption: Not sooner than May 27, 2020.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by May 26, 2020.

Assistance for Persons with Disabilities: Contact Amber Lougheed, phone 360-725-1349, fax 360-586-9727, telecommunication relay services 711, email amber.lougheed@hca.wa.gov, by May 15, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending these WAC to: (1) Align income exemptions with the Internal Revenue Code; (2) clarify noncountable income provisions; and (3) remove provisions that are no longer applicable.

Additionally, the agency is repealing three sections from chapter 182-509 WAC because:

- MAGI programs do not count the income from employment and training described in WAC 182-509-0345.
- Rules regarding needs-based assistance from other agencies or organizations set out in WAC 182-509-0350 have been moved to WAC 182-509-0320.
- Gifts and inheritances listed in WAC 182-509-0355 are already identified in WAC 182-509-0320.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Melinda Froud, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1408; Implementation and Enforcement: Mark Westenhaver, P.O. Box 45534, Olympia, WA 98504-5534, 360-725-1324.

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. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. This rule making does not impose costs on businesses.

April 7, 2020
Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-21-040, filed 10/7/14, effective 11/7/14)

WAC 182-509-0300 Modified adjusted gross income (MAGI). (1) The agency uses the modified adjusted gross income (MAGI) methodology to determine eligibility for MAGI-based Washington apple health ~~((WAH))~~ programs described in WAC 182-509-0305.

(2) MAGI methodology is described in WAC 182-509-0300 through 182-509-0375. Generally, MAGI includes adjusted gross income (as determined by the Internal Revenue Code (IRC)) increased by:

(a) Any amount of foreign income excluded from gross income under Section 911 of the IRC;

(b) Any amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax; and

(c) Any amount of Title II Social Security income or Tier 1 Railroad Retirement income which is excluded from gross income under Section 86 of the IRC.

(3) When calculating a person's eligibility for the programs listed in WAC 182-509-0305, the agency uses the person's MAGI income with the following exceptions:

(a) Scholarships or fellowship grants described in WAC 182-509-0335 used for education purposes are excluded from income;

(b) Income received by American Indian/Alaskan Native individuals described in WAC 182-509-0340 is excluded from income; ~~((and))~~

(c) Any income received as a lump sum as described in WAC 182-509-0375 is counted as income only in the month in which it is received; and

(d) Income received by a child age eighteen or younger or a tax dependent as described in WAC 182-509-0360 is excluded from income.

(4) Countable MAGI income is reduced by an amount equal to five percentage points of the federal poverty level (FPL) based on household size to determine net income except that there is no such reduction of countable MAGI income for parents or caretaker relatives with an eligible dependent child ~~((whose net countable income is below fifty-four percent of the FPL))~~ (as described in WAC 182-509-0305(1)). Net income is compared to the applicable standard described in WAC 182-505-0100.

(5) When calculating a person's eligibility for MAGI-based programs listed in WAC 182-509-0305, the agency determines the medical assistance unit for each person according to WAC 182-506-0010 and 182-506-0012.

AMENDATORY SECTION (Amending WSR 14-01-021, filed 12/9/13, effective 1/9/14)

WAC 182-509-0320 MAGI income—Noncountable income. For purposes of determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health ~~((WAH))~~ (see WAC 182-509-0300):

(1) Some types of income are not counted when determining eligibility for MAGI-based ~~((WAH))~~ apple health. Under the MAGI income methodology described in WAC 182-509-0300, income is not counted if the Internal Revenue Service (IRS) permits it to be excluded or deducted for pur-

poses of determining the tax liability of a person. (See 26 U.S.C. Sections 62(a) and 101-140.)

(2) Examples of income that are not counted include, but are not limited to:

(a) Bona fide loans, except certain student loans as specified under WAC 182-509-0335;

(b) Federal income tax refunds and earned income tax credit ~~((EITC))~~ payments for up to twelve months from the date received;

(c) Child support payments received by any person included in household size under WAC 182-506-0010;

(d) Nontaxable time loss benefits or other compensation received for sickness or injury, such as benefits from the department of labor and industries (L&I) or a private insurance company;

(e) Title IV-E and state foster care and adoption support maintenance payments;

(f) Veteran's benefits including, but not limited to, disability compensation and pension payments for disabilities paid to the veteran or family members; education, training and subsistence; benefits under a dependent-care assistance program for veterans, housebound allowance and aid and attendance benefits;

(g) ~~((Educational assistance that is not counted under WAC 182-509-0335;~~

(h) ~~Native American benefits and payments that are not counted under WAC 182-509-0340;~~

(i) ~~Income from employment and training programs that is not counted under WAC 182-509-0345;~~

(j) ~~Needs-based assistance from other agencies or organizations that is not counted under WAC 182-509-0350;~~

(k) ~~Money withheld from a benefit to repay an overpayment from the same income source;~~

(~~h~~) One-time payments issued under the Department of State or Department of Justice reception and replacement programs, such as Voluntary Agency (VOLAG) payments;

~~((m))~~ (h) Nontaxable income from employment and training programs;

(i) Any portion of income used to repay the cost of obtaining that income source;

~~((n) Insurance proceeds or other income received as a result of being a Holocaust survivor;~~

~~(o))~~ (i) Insurance proceeds or other income received as a result of being a Holocaust survivor;

(k) Federal economic stimulus payments that are excluded for federal and federally assisted state programs;

~~((p) Federal twenty-five dollar supplement weekly unemployment compensation payment authorized by the American Recovery and Reinvestment Act of 2009;~~

~~(q))~~ (l) Income from a sponsor given to a sponsored immigrant;

~~((r) Energy assistance payments;~~

~~(s))~~ (m) Fringe benefits provided on a pretax basis by an employer, such as transportation benefits or moving expenses;

~~((t))~~ (n) Employer contributions to certain pretax benefits funded by an employee's elective salary reduction, such as amounts for a flexible spending account;

~~((u))~~ (o) Distribution of pension payments paid by the employee (such as premiums or contributions) that were previously subject to tax;

~~((v) Gifts or inheritances to the person that are not counted under WAC 182-509-0355;~~

~~(w))~~ (p) Gifts as described in IRS Publication 559: Survivors, Executors, and Administrators;

(q) Cash or noncash inheritances, except that the agency counts income produced by an inheritance;

(r) Death benefits from life insurance and certain benefits paid for deaths that occur in the line of duty; and

~~((x))~~ (s) Other payments that are excluded from income under state or federal law.

(3) Income received from ~~((the following cash programs is not countable income for MAGI-based WAH))~~ other agencies or organizations as needs-based assistance is not countable income under this section.

(a) "Needs-based" means eligibility for the program is based on having limited income, or resources, or both. Examples of needs-based assistance are:

(i) Clothing;

(ii) Food;

(iii) Household supplies;

(iv) Medical supplies (nonprescription);

(v) Personal care items;

(vi) Shelter;

(vii) Transportation; and

(viii) Utilities (e.g., lights, cooking fuel, the cost of heating or heating fuel).

(b) Needs-based cash programs include, but are not limited to, the following apple health programs:

~~((a))~~ (i) Diversion cash assistance (DCA);

~~((b))~~ (ii) Temporary assistance for needy families (TANF);

~~((c))~~ (iii) State family assistance (SFA);

~~((d))~~ (iv) Pregnant women's assistance (PWA);

~~((e))~~ (v) Refugee cash assistance (RCA);

~~((f))~~ (vi) Aged, blind, disabled cash assistance (ABD); and

~~((g))~~ (vii) Supplemental security income (SSI).

AMENDATORY SECTION (Amending WSR 14-01-021, filed 12/9/13, effective 1/9/14)

WAC 182-509-0335 MAGI income—Educational benefits. For purposes of determining eligibility for modified adjusted gross income (MAGI)-based Washington apple health ~~((WAH))~~ (see WAC 182-509-0300), the agency or its designee does not count educational ~~((assistance))~~ benefits as income when they are used for education expenses, unless the educational benefits are used for living expenses. Examples include, but are not limited to:

(1) Educational assistance in the form of grants or loans issued under Title IV of the Higher Education Amendments (Title IV - HEA) or through a program administered by the Department of Education (DOE), such as:

(a) Pell grants (Title IV);

(b) Stafford loans (Title IV);

(c) Perkins loan program (Title IV);

(d) State need grant program (Title IV);

(e) ~~((Christa McAuliffe fellowship program (DOE); (f) Jacob K. Javits fellowship program (DOE); and (g) Library career))~~ Training programs administered by the Department of Education (DOE).

(2) Payments received for education, training, or subsistence under any law administered by the department of Veteran's Affairs (VA).

(3) Student financial assistance provided under the Bureau of Indian Affairs education programs.

(4) Educational assistance in the form of grants or loans under the Carl D. Perkins Vocational and Applied Technology Education Act, P.L. 101-392.

(5) Work study income including:

(a) Federal or state work study income; and

(b) WorkFirst work study income.

(6) Payments to service academy cadets at a military academy.

(7) Payments for the purposes of tuition made on behalf of the individual to an educational organization for the education or training of such individual.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 182-509-0345 MAGI income—Income from employment and training programs.
- WAC 182-509-0350 MAGI income—Needs-based assistance from other agencies or organizations.
- WAC 182-509-0355 MAGI income—Gifts and inheritances.

**WSR 20-09-038
PROPOSED RULES
DEPARTMENT OF HEALTH**

(Nursing Care Quality Assurance Commission)

[Filed April 7, 2020, 4:18 p.m.]

Continuance of WSR 20-03-125.

Preproposal statement of inquiry was filed as WSR 19-15-093.

Title of Rule and Other Identifying Information: WAC 246-840-342 and 246-840-360 pertaining to advanced registered nurse practitioner (ARNP) clinical practice hour requirements. The nursing care quality assurance commission (commission) is proposing amendments to ARNP clinical practice hour requirements for license renewal and licensure by endorsement.

Hearing Location(s): On April 16, 2020, at 4:00 p.m.

In response to the coronavirus disease 2019 (COVID-19) public health emergency, the commission will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead.

To access the meeting online: <https://global.gotowebinar.com/pjoin/5618320105826756109/1678434592458880269>.

You can also dial in using your phone: United States: +1 (213) 929-4232, Access Code: 225-656-460.

Date of Intended Adoption: April 16, 2020.

Submit Written Comments to: Brandon Williams, P.O. Box 47864, Olympia, WA 98504, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-4738, by April 13, 2020.

Assistance for Persons with Disabilities: Contact Brandon Williams, phone 360-236-4239, fax 360-236-4738, TTY 711, email brandon.williams@doh.wa.gov, by April 13, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In an effort to protect the public's health due to the COVID-19 pandemic, the commission was unable to hold an in-person public hearing originally scheduled for March 13, 2020, in a safe manner. In an effort to protect the public's health while continuing our commitment to engage in the public, the commission will hold a virtual public hearing on April 16, 2020. Commission members will listen remotely. We encourage and accept public comments from interested individuals using the GoToWebinar application, as well as submission of written comments to P.O. Box 47864, Olympia, WA 98504-7864.

Statutory Authority for Adoption: RCW 18.79.110, 18.79.160.

Statute Being Implemented: RCW 18.79.110, 18.79.160.

April 7, 2020
Paula R. Meyer, MSN, RN, FRE
Executive Director
Nursing Care Quality
Assurance Commission

AMENDATORY SECTION (Amending WSR 19-08-031, filed 3/27/19, effective 4/27/19)

WAC 246-840-342 Licensure for ARNP applicants by interstate endorsement. (1) An applicant for interstate endorsement for Washington state licensure as an ARNP shall meet the following requirements:

(a) Have an active RN and ARNP license, or recognition in another state or jurisdiction, as practicing in an advanced practice role, without sanctions or restrictions;

(b) Have a graduate degree from an advanced nursing education program as identified in WAC 246-840-340 (1)(b); and

(c) Hold certification from a certifying body as identified in WAC 246-840-302(3) ~~(; and~~

~~(d) Have been performing advanced clinical practice as defined in WAC 246-840-010(1) as a licensed ARNP, or in the role of an advanced practice nurse as defined in WAC 246-840-010(2), for at least two hundred fifty hours within the two years prior to the date of application).~~

(2) An applicant for an ARNP license through interstate endorsement shall:

(a) Apply for and be granted a Washington state RN license as identified in WAC 246-840-090;

(b) Submit a completed ARNP application for licensure to the commission;

(c) Submit the license fee as specified in WAC 246-840-990;

(d) Request the certifying body, as identified in WAC 246-840-302, to send official documentation of certification directly to the commission;

(e) Request the advanced nursing educational program to send an official transcript directly to the commission showing courses, grades, degree or certificate granted, official seal and appropriate registrar; and

(f) Submit nursing education program objectives and course descriptions when requested by the commission(~~;~~ and

~~(g) Submit evidence of at least two hundred fifty hours of advanced clinical practice as an ARNP, or at an advanced nursing practice level, within the two years prior to the date of application. The two hundred fifty hours may include teaching advanced nursing practice if providing direct patient care as a faculty member or serving as a preceptor in a clinical setting.~~

~~(3) An ARNP applicant who does not meet practice requirements shall complete two hundred fifty hours of supervised advanced clinical practice for every two years the applicant may have been out of practice, not to exceed one thousand hours.~~

~~(4) An ARNP applicant needing to complete the supervised advanced clinical practice shall obtain an ARNP interim permit consistent with the requirements for supervised practice defined in WAC 246-840-340 (4) and (5)).~~

AMENDATORY SECTION (Amending WSR 19-08-031, filed 3/27/19, effective 4/27/19)

WAC 246-840-360 Renewal of ARNP licensure. (1) An applicant applying for ARNP license renewal, shall have:

(a) An active Washington state RN license, without sanctions or restrictions;

(b) Current certification from a certifying body as identified in WAC 246-840-302; and

(c) Thirty contact hours of continuing education obtained during the renewal period in each ARNP designation. An ARNP who has certification in more than one area of practice may count the continuing education hours for more than one certification when applicable to each area of practice(~~;~~ and

~~(d) At least two hundred fifty hours in advanced clinical practice for each ARNP designation within the two year licensing renewal cycle. The two hundred fifty hours may include teaching advanced nursing practice only when the faculty member is providing patient care or serving as a preceptor in a clinical setting).~~

(2) An applicant for ARNP licensure renewal shall comply with the requirements of chapter 246-12 WAC, Part 2 and submit:

(a) The renewal license fee as specified in WAC 246-840-990;

(b) Evidence of current certification by the commission approved certifying body for each designation;

(c) A written declaration, on forms provided by the commission attesting to: ~~((+))~~ Completion of thirty contact hours of continuing education during the renewal period for each ARNP designation; and

~~((ii) Completion of a minimum of two hundred fifty hours of advanced clinical practice for each designation in the ARNP role within the last two years.))~~

(d) Evidence of completion of continuing education contact hours and advanced clinical practice hours when requested by the commission.

~~((3) An applicant for ARNP licensure renewal who does not meet advanced clinical practice requirements shall complete two hundred fifty hours of supervised advanced clinical practice for every two years the applicant may have been out of practice, not to exceed one thousand hours.~~

~~(4) An applicant for ARNP licensure renewal needing to complete supervised advanced clinical practice shall obtain an ARNP interim permit consistent with the requirements for supervised practice defined in WAC 246-840-340 (4) and (5).))~~

WSR 20-09-058

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed April 10, 2020, 8:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-04-057.

Title of Rule and Other Identifying Information: WAC 388-829C-131 How does DDA determine the daily rate?

Hearing Location(s): On May 26, 2020, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington Street S.E., Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than May 27, 2020.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., May 26, 2020.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by May 12, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending this rule to implement a 13.5 percent daily rate increase for companion home providers.

Reasons Supporting Proposal: The daily rate increase for companion home providers was approved in the 2019 operating budget under ESHB 1109 (section 203, chapter 415, Laws of 2019).

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: RCW 71A.12.040.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1589; Implementation and Enforcement: Kelly Hampton, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1514.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-407-1589, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

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

Is exempt under RCW 34.05.328 (5)(b)(vi).

Explanation of exemptions: The proposed amendments "adjust fees or rates pursuant to legislative standards."

April 9, 2020
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-22-106, filed 11/6/18, effective 12/7/18)

WAC 388-829C-131 How does DDA determine the daily rate? (1) A companion home daily rate equals the sum of the client's support assessment scale scores multiplied by ~~((12.5))~~ 14.2.

(2) The residential algorithm under chapter 388-828 WAC determines the level of services and supports a companion home client may receive.

(3) The CARE assessment assigns support levels of "none," "low," "medium," or "high" to each support assessment scale that correspond to the values below:

Category	None	Low	Medium	High
Activities of daily living	0	1	2	3
Behavior	0	1	2	3
Interpersonal support	0	1	2	3
Medical	0	1	2	3
Mobility	0	1	2	3
Protective supervision	0	1	2	3

(4) DDA assigns a behavior score of four if the client has a:

(a) Behavior score of three on ~~((their))~~ the support assessment scale;

(b) Challenging behavior documented on form DSHS 10-234; and

(c) Current positive behavior support plan.

(5) DDA reviews a companion home daily rate annually and if a significant change assessment occurs during the plan year.

(6) DDA may adjust a companion home daily rate if:

(a) Any of the client's support assessment scale levels change;

(b) The multiplier changes due to a vendor rate change;

or

(c) The annual cost of respite services increased because DDA approved additional respite hours under WAC 388-829C-234(3) and the client's assessed support needs remain unchanged since the most recent CARE assessment.

WSR 20-09-075
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Long-Term Support Administration)
[Filed April 14, 2020, 8:56 a.m.]

Continuance of WSR 20-08-042.

Preproposal statement of inquiry was filed as WSR 20-03-124.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-106-0715 How do I end my enrollment in the PACE program?

Hearing Location(s): On May 26, 2020, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington Street S.E., Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than May 26, 2020.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., May 26, 2020.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by May 12, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is filing a continuance to WSR 20-08-042 in order to allow the department and interested parties more time to plan and prepare for the public hearing during this uncertain time with the COVID-19 pandemic.

The department is proposing to amend WAC 388-106-0715 to provide PACE clients, PACE organizations, and other stakeholders information about how clients can end their enrollment in the PACE program. This rule making will give guidance [on] how to disenroll and the specific timelines. The amendment updates the WAC language to align with recent Centers for Medicare and Medicaid (CMS) changes to C.F.R. 460.162 and 460.164.

Reasons Supporting Proposal: See purpose statement above.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, 74.39A.010, 74.39A.020.

Statute Being Implemented: RCW 74.08.090, 74.09.520.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kathryn Pittelkau, P.O. Box 45600, Olympia, WA 98504-5600, 360-725-2366.

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. This amendment is exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "[t]his section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

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

Is exempt under RCW 19.85.025.

Explanation of exemptions: The proposed rule does not have an economic impact on small businesses. It only impacts DSHS clients.

April 13, 2020
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-05-022, filed 2/6/06, effective 3/9/06)

WAC 388-106-0715 How do I end my enrollment in the PACE program? (1) You may choose to voluntarily end your enrollment in the PACE program without cause at any time. To do so, you must give the PACE provider written notice. ~~((If you give notice:~~

~~(a) Before the fifteenth of the month, the department will end your enrollment effective at the end of the month; or~~

~~(b) After the fifteenth, the department will end your enrollment effective until the end of the following month)) A PACE participant's voluntary disenrollment is effective on the first day of the month following the date the PACE organization receives the participant's notice of voluntary disenrollment.~~

(2) Your enrollment may also end involuntarily if you:

(a) Move out of the designated service area or are out of the service area for more than thirty consecutive days, unless the PACE provider agrees to a longer absence due to extenuating circumstances;

(b) Engage in disruptive or threatening behavior such that the behavior jeopardizes your health or safety, or the safety of others;

(c) Fail to comply with your plan of care or the terms of the PACE enrollment agreement;

(d) Fail to pay or make arrangements to pay your part of the costs after the thirty-day grace period;

(e) Become financially ineligible for medicaid services, unless you choose to pay privately;

(f) Are enrolled with a provider that loses its license ~~((and/or)) or contract, or both;~~ or

(g) No longer meet the nursing facility level of care requirement as defined in WAC 388-106-0205.

(3) For any of the above reasons, the PACE provider must give you written notice, including your appeal rights, explaining that they are terminating benefits. ~~((If the provider gives you notice:~~

~~(a) Before the fifteenth of the month, then the department will end your enrollment at the end of the month; or~~

~~(b) After the fifteenth, then the department will end your enrollment at the end of the following month)) A PACE participant's involuntary disenrollment is effective on the first day of the next month that begins thirty days after the day the PACE organization sends notice of the disenrollment to the participant.~~

(4) Before the PACE provider can involuntarily end your enrollment in the PACE program, the department must review and approve it.

WSR 20-09-078

WITHDRAWAL OF PROPOSED RULES SEATTLE COLLEGES

(By the Code Reviser's Office)

[Filed April 14, 2020, 10:22 a.m.]

WAC 132F-126-010, 132F-126-020, 132F-126-030, 132F-126-040, 132F-126-050, and 132F-126-060, proposed by the Seattle Colleges in WSR 19-20-069, appearing in issue 19-20 of the Washington State Register, which was distributed on October 16, 2019, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Jennifer C. Meas, Editor
Washington State Register

WSR 20-09-080

PROPOSED RULES HEALTH CARE AUTHORITY

[Filed April 14, 2020, 11:54 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-05-055.

Title of Rule and Other Identifying Information: WAC 182-501-0200 Third-party resources.

Hearing Location(s): On May 26, 2020, at 10:00 a.m., at the Health Care Authority (HCA), Cherry Street Plaza, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504. Metered public parking is available street side around building. A map is available at <https://www.hca.wa.gov/assets/program/Driving-parking-checkin-instructions.pdf> or directions can be obtained by calling 360-725-1000.

Date of Intended Adoption: Not sooner than May 27, 2020.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by May 26, 2020.

Assistance for Persons with Disabilities: Contact Amber Loughed, phone 360-725-1349, fax 360-586-9727, TTY telecommunication relay services 711, email amber.loughed@hca.wa.gov, by May 15, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending this section to implement requirements in the Bipartisan Budget Act of 2018, which requires state medicaid agencies to use cost-avoidance on labor, delivery, and postpartum care claims. The Bipartisan Budget Act of 2018 also delayed the implementation of a provision in the Bipartisan Budget Act of 2013 that allowed payment up to ninety days for claims associated with medical support enforcement, rather than thirty days under the previous law. The agency is revising this section to implement this provision, now amended to one hundred days, rather than ninety, by the Medicaid Services Investment and Accountability Act of 2019.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, 42 U.S.C. Sec. 1902 (a)(25)(E) of the Social Security Act and section 53102 (a)(1) of the Bipartisan Budget Act of 2018; 42 U.S.C. Sec. 1305 (7)(a).

Statute Being Implemented: RCW 41.05.021, 41.05.160.

Rule is necessary because of federal law, Section 53102 (a)(1) of the Bipartisan Budget Act of 2018.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Michael Williams, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1346; Implementation and Enforcement: Mark Benya, P.O. Box 45561, Olympia, WA 98504-2716, 360-725-1891.

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. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule does not impose any cost on small businesses and therefore cannot impose more-than-minor costs.

April 14, 2020
Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-23-008, filed 11/6/19, effective 12/7/19)

WAC 182-501-0200 Third-party resources. (1) The medicaid agency requires a provider to seek timely reimbursement from a third party when a client has available third-party resources, except as described under subsections (2) and (3) of this section.

(2) The agency pays for medical services and seeks reimbursement from a liable third party when the claim is for ~~(any of the following:~~

~~(a) Labor, delivery, and postpartum care (except inpatient hospital costs) for a pregnant woman; or~~

~~(b))~~ preventive pediatric services as covered under the early and periodic screening, diagnosis and treatment (EPSDT) program.

(3) The agency pays for medical services and seeks reimbursement from any liable third party when both of the following apply:

(a) The provider submits to the agency documentation of billing the third party and the provider has not received payment after ~~((thirty))~~ one hundred days from the date of services; and

(b) The claim is for a covered service provided to a client on whose behalf the office of support enforcement is enforcing a noncustodial parent to pay support. For the purpose of this section, "is enforcing" means the noncustodial parent either:

(i) Is not complying with an existing court order; or

(ii) Received payment directly from the third party and did not pay for the medical services.

(4) The provider may not bill the agency or the client for a covered service when a third party pays a provider the same amount as or more than the agency rate.

(5) When the provider receives payment from a third party after receiving reimbursement from the agency, the provider must refund to the agency the amount of the:

(a) Third-party payment when the payment is less than the agency's maximum allowable rate; or

(b) Agency payment when the third-party payment is equal to or more than the agency's maximum allowable rate.

(6) The agency does not pay for medical services if third-party benefits are available to pay for the client's medical services when the provider bills the agency, except under subsections (2) and (3) of this section.

(7) The client is liable for charges for covered medical services that would be paid by the third-party payment when the client either:

(a) Receives direct third-party reimbursement for the services; or

(b) Fails to execute legal signatures on insurance forms, billing documents, or other forms necessary to receive insurance payments for services rendered. See WAC 182-503-0540 for assignment of rights.

(8) The agency considers an adoptive family to be a third-party resource for the medical expenses of the birth mother and child only when there is a written contract between the adopting family and either the birth mother, the attorney, the provider, or the adoption service. The contract must specify that the adopting family will pay for the medical care associated with the pregnancy.

(9) A provider cannot refuse to furnish covered services to a client because of a third-party's potential liability for the services.

(10) For third-party liability on personal injury litigation claims, the agency or managed care organization (MCO) is responsible for providing medical services under WAC 182-501-0100.

WSR 20-09-095
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed April 15, 2020, 2:43 p.m.]

Continuance of WSR 20-08-102.

Preproposal statement of inquiry was filed as WSR 19-22-070.

Title of Rule and Other Identifying Information: The department is proposing amendments to WAC 388-493-0010 Working family support.

Hearing Location(s): On May 26, 2020, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington Street S.E., Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than May 27, 2020.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., May 26, 2020.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by May 12, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments extend the working family support program through June 30, 2021.

This notice is to announce a change in the previously scheduled public hearing on this proposed rule making, from May 5, 2020, to May 26, 2020. The previously scheduled public hearing on May 5, 2020, will not be held, and the public hearing for this proposed rule making is rescheduled to May 26, 2020. This notice also extends the written comment deadline to 5:00 p.m. on May 26, 2020.

Reasons Supporting Proposal: Proposed amendments reflect that the working family support program continues to be funded based on the 2019-2021 operating budget.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090; and chapter 415, Laws of 2019.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jake Deskins, P.O. Box 45470, Olympia, WA 98504-5770, 360-725-4639.

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. This amendment is exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "[t]his section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

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

Is exempt under RCW 34.05.328 (5)(b)(vii).

Explanation of exemptions: The proposed rules do not affect small businesses. They only affect DSHS clients.

April 15, 2020

Katherine I. Vasquez

Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-23-050, filed 11/9/17, effective 12/10/17)

WAC 388-493-0010 Working family support. (1)

What is the working family support (WFS) program?

The working family support program is administered by the department of social and health services (department) and provides an additional monthly food benefit from May 2016 through June 30, ((2019)) 2021 to low income families who meet specific criteria. Continuance of the program beyond June 30, ((2019)) 2021 is contingent on specific legislative funding for the working family support program.

(2) The following definitions apply to this program:

(a) "Co-parent" means another adult in your home who is related to your qualifying child through birth or adoption.

(b) "Qualifying child" means a child under the age of eighteen who is:

(i) Your child through birth or adoption; or

(ii) Your step-child.

(c) "Work" means subsidized or unsubsidized employment or self-employment. To determine self-employment hours, we divide your net self-employment income by the federal minimum wage.

(3) Who is eligible for the working family support program?

You may be eligible for working family support food assistance if you meet all of the following:

(a) You receive food assistance through basic food, food assistance program for legal immigrants (FAP), or transitional food assistance (TFA);

(b) Receipt of working family support food assistance would not cause your countable food assistance income to exceed the two hundred percent federal poverty level (FPL);

(c) No one in your food assistance unit receives temporary assistance for needy families (TANF) or state family assistance (SFA);

(d) A qualifying child lives in your home;

(e) You, your spouse, or co-parent work a minimum of thirty-five hours a week, and if you live with your spouse or co-parent, you must be in the same assistance unit;

(f) You provide proof of the number of hours worked; and

(g) You reside in Washington state as required under WAC 388-468-0005.

(4) How may I apply for working family support?

(a) The department will review your eligibility for the working family support program:

(i) When you apply for food assistance, or

(ii) At the time of your food assistance eligibility review.

(b) You may request the working family support benefit in person, in writing, or by phone at any time.

(5) How long may I receive working family support?

(a) You may recertify up to an additional six months for working family support if you meet the criteria listed in subsection (3) of this section and provide current proof that you, your spouse, or co-parent works a minimum of thirty-five hours a week.

(b) Working family support certification ends when:

(i) You complete either a certification or mid-certification review for food assistance under WAC 388-434-0010 or 388-418-0011, and you do not provide proof of the number of hours that you, your spouse, or your co-parent work;

(ii) You no longer receive basic food, FAP, or TFA;

(iii) You receive TANF or SFA;

(iv) You do not have a qualifying child in your home;

(v) You, your spouse, or co-parent no longer work a minimum of thirty-five hours a week; or

(vi) You are no longer a resident of Washington state.

(6) What benefits will I receive if I am eligible for the working family support program?

(a) The assistance unit will receive a separate ten dollars monthly food assistance benefit each month.

(b) Working family support benefits are not prorated.

(7) Enrollment in the working family support program is limited to ten thousand households per month.

older; (2) who are at or below two hundred sixty percent of the federal poverty level; (3) who are not covered by public or private insurance; and (4) who need family planning services and are not currently covered by or eligible for another medical assistance program for family planning.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160; and ESHB 1109, section 211(47), chapter 415, Laws of 2019, operating budget.

Statute Being Implemented: RCW 41.05.021, 41.05.160; and ESHB 1109, section 211(47), chapter 415, Laws of 2019, operating budget.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Jason Crabbe, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-9563; Implementation and Enforcement: Melissa Rivera, P.O. Box 45534, Olympia, WA 98504-5534, 360-725-1713.

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. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. These rules pertain to client eligibility and do not impose any costs on businesses.

April 15, 2020
Wendy Barcus
Rules Coordinator

WSR 20-09-096
PROPOSED RULES
HEALTH CARE AUTHORITY

[Filed April 15, 2020, 3:26 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-21-038.

Title of Rule and Other Identifying Information: WAC 182-532-510 Family planning only programs—Eligibility.

Hearing Location(s): On May 26, 2020, at 10:00 a.m., at Health Care Authority (HCA), Cherry Street Plaza, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504. Metered public parking is available street side around building. A map is available at <https://www.hca.wa.gov/assets/program/Driving-parking-checkin-instructions.pdf> or directions can be obtained by calling 360-725-1000.

Date of Intended Adoption: Not sooner than May 27, 2020.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by May 26, 2020.

Assistance for Persons with Disabilities: Contact Amber Lougheed, phone 360-725-1349, fax 360-586-9727, telecommunication relay services 711, email amber.lougheed@hca.wa.gov, by May 15, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is establishing rules to comply with ESHB 1109, section 211 (47), which provides funding for services identical to those services covered by the Washington state family planning waiver program to individuals who: (1) Are age twenty and

AMENDATORY SECTION (Amending WSR 19-18-024, filed 8/28/19, effective 10/1/19)

WAC 182-532-510 Family planning only programs—Eligibility. To be eligible for one of the family planning only programs listed in this section, a client must meet the qualifications for that program.

(1) Family planning only - Pregnancy related program.

(a) To be eligible for family planning only - Pregnancy related services, as defined in WAC 182-532-001, a client must be determined eligible for the Washington apple health for pregnant ((clients)) women program during the pregnancy, or determined eligible for a retroactive period covering the end of a pregnancy. See WAC 182-505-0115.

(b) A client is automatically eligible for the family planning only - Pregnancy related program when the client's pregnancy ends.

(c) A client may apply for the family planning only program in subsection (2) of this section up to sixty days before the expiration of the family planning only - Pregnancy related program.

(2) Family planning only program.

(a) To be eligible for family planning only services, as defined in WAC 182-532-001, a client must:

~~(i) (Be a United States citizen, U.S. National, or "qualified alien" as described under WAC 182-503-0535;~~

~~((ii)) Provide a valid Social Security number (SSN) or proof of application to receive an SSN, be exempt from the requirement to provide an SSN as provided in WAC 182-503-0515, or meet good cause criteria listed in WAC 182-503-0515(2);~~

~~((iii)) (ii) Be a Washington state resident, as described under WAC 182-503-0520;~~

~~((iv)) (iii) Have an income at or below two hundred sixty percent of the federal poverty level, as described under WAC 182-505-0100;~~

~~((v)) (iv) Need family planning services; and~~

~~((vi)) (v) Have been denied apple health coverage within the last thirty days, unless the applicant:~~

~~(A) Is age eighteen (~~and~~) or younger and seeking services in confidence;~~

~~(B) Is a domestic violence victim who is seeking services in confidence; or~~

~~(C) Has an income of one hundred fifty percent to two hundred sixty percent of the federal poverty level, as described in WAC 182-505-0100.~~

~~(b) A client is not eligible for family planning only medical if the client is:~~

~~(i) Pregnant;~~

~~(ii) Sterilized;~~

~~(iii) Covered under another apple health program that includes family planning services; or~~

~~(iv) Covered by concurrent creditable coverage, as defined in RCW 48.66.020, unless they meet criteria in (a) (~~vi~~) (v) of this subsection.~~

~~(c) A client may reapply for coverage under the family planning only program up to sixty days before the expiration of the twelve-month coverage period. The agency does not limit the number of times a client may reapply for coverage.~~

WSR 20-09-098

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed April 16, 2020, 8:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-21-078.

Title of Rule and Other Identifying Information: The department is proposing amendments to WAC 388-452-0005 Do I have to be interviewed in order to get cash and basic food benefits?

Hearing Location(s): On May 26, 2020, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington Street S.E., Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than May 27, 2020.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., May 26, 2020.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by May 12, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Proposed amendments to WAC 388-452-0005 will clearly identify the circumstances under which a basic food recertification interview may be waived for clients who are elderly or disabled. These changes will align rule with the specific federal elderly simplified application project requirements.

Reasons Supporting Proposal: This basic food interview waiver is authorized under the federal Supplemental Nutrition Assistance Program Elderly Simplified Application Project.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Carolyn Horlor, P.O. Box 45470, Olympia, WA 98504-5770, 360-764-0676.

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. The amendment is exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part "This section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility."

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

Is exempt under RCW 34.05.328 (5)(b)(vii).

Explanation of exemptions: The proposed amendments do not affect small businesses. They only affect DSHS clients.

April 15, 2020

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-18-006, filed 8/22/13, effective 10/1/13)

WAC 388-452-0005 Do I have to be interviewed in order to get cash and basic food benefits? (1) You or your authorized representative must have an interview with the department:

(a) At initial certification; and

(b) At least once every twelve months, unless you meet the requirements in subsection (8)(b) of this section.

(2) You will have just one interview even if you are applying for or are having a review for benefits from more than one program.

(3) We hold interviews either in person or over the phone.

(4) If we do not interview you on the same day that we receive your application, we will schedule an interview appointment for you or have you contact us by phone during our business hours to complete your interview.

(5) If we schedule an interview, we will set your appointment to allow you at least ten days after the interview to provide needed verification:

(a) Before the end of the thirty-day processing period for applications; or

(b) Before your certification period ends for eligibility reviews or recertifications.

(6) If you miss your first interview and ask for another interview within thirty days of the date you applied for benefits, we schedule a second interview or have you call us and complete the interview over the phone.

(7) If you must have an interview for benefits, you or someone who can give us the information we need about your AU must participate in the interview. You may ask any person you choose to help with your interview.

(8) For basic food only(\pm):

(a) Your authorized representative as described in WAC 388-460-0005 may take your place during your interview.

(b) We may waive the interview requirement at recertification if the household meets the elderly simplified application project (ESAP) criteria:

(i) All members of the household are elderly or disabled, as defined in WAC 388-400-0040;

(ii) No mandatory or applying household members have earned income;

(iii) The paper or electronic eligibility review is complete;

(iv) The household has provided all necessary verification or the verification is available through interfaces available to the department; and

(v) No information provided is unclear or incomplete requiring a request for verification.

WSR 20-09-099
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed April 16, 2020, 8:47 a.m.]

Continuance of WSR 20-08-090.

Preproposal statement of inquiry was filed as WSR 19-09-034.

Title of Rule and Other Identifying Information: The department is proposing amendments to WAC 388-460-0010 Do I have an authorized representative for basic food if I live in a treatment center or group home?

Hearing Location(s): On May 26, 2020, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington Street S.E., Olympia, WA 98504. Public parking at 11th and Jefferson. A map

is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than May 27, 2020.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., May 26, 2020.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by May 12, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amendments to WAC 388-460-0010 are proposed in compliance with changes to federal regulations regarding the amount of basic food benefits returned to recipients that leave substance use treatment centers and group homes. Proposed amendments align with federal regulations, including a state option to prorate benefits when a recipient leaves a treatment center after the fifteenth day of a month. This option is in the best interest of recipients, allowing remaining basic food benefits to be returned to their electronic benefit transfer (EBT) card upon departure from the treatment center.

This notice is to announce a change in the previously scheduled public hearing on this proposed rule making, from May 5, 2020, to May 26, 2020. The previously scheduled public hearing on May 5, 2020, will not be held and the public hearing for this proposed rule making is rescheduled to May 26, 2020. This notice also extends the written comment deadline to 5:00 p.m. on May 26, 2020.

Reasons Supporting Proposal: The United States Department of Agriculture, Food and Nutrition Service enforces the provisions of the federal Supplemental Nutrition Assistance Program. The department amends its rules to ensure that they are consistent with federal statutes, regulations, and guidance. Proposed amendments align department rule with federal regulations.

Statutory Authority for Adoption: RCW 74.04.500, 74.04.510, 74.08A.120, and 7 C.F.R. 273.11 (e) and (f).

Rule is necessary because of federal law, 7 C.F.R. 273.11 (e)(6).

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Ivette Dones-Figueroa, P.O. Box 45470, Olympia, WA 98504-5470, 360-725-4651.

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. The amendment is exempt as allowed under RCW 34.05.328 (5)(b)(iii) which states in part "This section does not apply to ... rules adopting or incorporating by reference without material change federal statutes or regulations."

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

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and descrip-

tion of the consequences to the state if the rule is not adopted: 7 C.F.R. 273.11 (e)(6). Consequences of not adopting these amendments include federal audit findings leading to potential loss of federal program funding.

April 15, 2020
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-03-037, filed 1/7/19, effective 2/7/19)

WAC 388-460-0010 Do I have an authorized representative for basic food if I live in a treatment center or group home? (1) If you live in a qualified developmental disabilities administration (DDA) group home under WAC 388-408-0040, you may choose to apply for basic food benefits:

- (a) On your own behalf;
 - (b) Through an authorized representative of your choice;
- or
- (c) Through the DDA group home acting as your authorized representative.
- (2) If you live in a qualified drug and alcohol treatment center under WAC 388-408-0040, a designated treatment center employee ~~((must))~~ may apply for your basic food benefits, and the center will act as your authorized representative.
- (3) When the qualified drug and alcohol treatment ~~((facility))~~ center or qualified DDA group home is your authorized representative, it must:
- (a) Be aware of your circumstances;
 - (b) Notify the department of any changes in your income, resources, or circumstances within ten days of the change;
 - (c) Use your basic food benefits for meals served to you; and
 - (d) Give you a change in circumstances report form, when the center or group home learns you plan to leave, and advise you to report any changes as required under WAC 388-418-0005 to the department within ten days of the date of change.
 - (4) When a center or group home is an authorized representative for residents, the facility accepts responsibility for:
 - (a) Any misrepresentation or intentional program violation; and
 - (b) Liability for basic food benefits held at the facility on behalf of residents.
 - (5) When you leave a facility and the treatment center or group home is your authorized representative, it must:
 - (a) ~~((Either))~~ Account for any benefits withdrawn;
 - (b) Return your basic food allotment as follows:
 - (i) Return ~~((to you a prorated amount))~~ all of your basic food allotment ~~((for that month based on the number of days remaining in the month))~~ if you leave the center or group home and no benefits have been spent on your behalf; ~~((or))~~
 - (ii) Return one-half of your basic food allotment if you leave the center or group home on or before the fifteenth of the month; or
 - (iii) Return a prorated amount of your basic food allotment based on the number of days remaining in the month if

you leave a qualified drug and alcohol treatment center on or after the sixteenth of the month;

~~((c))~~ Notify the department ~~((, within five days of your departure,))~~ that the facility is unable to refund your prorated share anytime during the month;

~~((b))~~ (d) Notify the department of your change in address ~~((, new address if available,))~~ and other change of circumstances and that the facility is no longer your authorized representative; and

~~((e))~~ (i) Provide you with your electronic benefits transfer (EBT) card ~~((within five days of leaving the facility))~~ if the facility was in possession of the card; or

~~((d))~~ (ii) Return your EBT card to the department ~~((within five days))~~ by the end of the month if they are unable to provide it to you.

WSR 20-09-106
PROPOSED RULES
CASCADIA COLLEGE
[Filed April 16, 2020, 1:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-21-05 [19-21-051].

Title of Rule and Other Identifying Information: General conduct code.

Hearing Location(s): On June 1, 2020, at 3:00 p.m., at Cascadia College, Board Room CC2-260, 18345 Campus Way N.E., Bothell, WA 98011. The public hearing may need to be conducted remotely due to COVID-19, in which case a virtual meeting link and phone number will be provided to the public. For updates call the president's office at 425-352-8252 or visit www.cascadia.edu/discover/governance/trustees.aspx.

Date of Intended Adoption: June 17, 2020.

Submit Written Comments to: M. Lily Allen, Rules Coordinator, Office of the President, 18345 Campus Way N.E., Bothell, WA 98011, email lallen@cascadia.edu, fax 425-352-8265.

Assistance for Persons with Disabilities: Contact Gordon Dutrisac, director, student advising and support services, phone 425-352-8288, email gdutrisac@cascadia.edu.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules would establish a general code of conduct for Cascadia College applicable to students, faculty/staff, visitors, and the general public regarding alcohol, drug and tobacco use on campus, offenses against persons or property, disruptive conduct, animals on campus, and weapons, including enforcement procedures, trespass notices, and appeals. Overlapping existing rules would be repealed.

Reasons Supporting Proposal: The proposed rules would provide public notice of prohibited conduct, enforcement procedures, and appeal rights.

Statutory Authority for Adoption: RCW 28B.50.140 and Administrative Procedure Act, chapter 34.05 RCW.

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

Name of Proponent: Cascadia College, public.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Meagan Walker, External Relations and Planning, 425-352-8491.

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. The proposed rules are not "significant legislative rules" as defined under RCW 34.05.328(5).

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rules do not affect small businesses.

April 16, 2020

M. Lily Allen

Rules Coordinator

Executive Assistant to President

Chapter 132Z-110 WAC

CASCADIA COLLEGE GENERAL CONDUCT CODE

NEW SECTION

WAC 132Z-110-010 Scope and application—Definitions. (1) **Scope and application.** This chapter constitutes the general conduct code of Cascadia College applicable to college students, faculty, staff, and visitors. Except as otherwise indicated, the conduct set forth in this chapter is prohibited anywhere on campus grounds or in college facilities.

(2) **Definitions.** Unless otherwise indicated, the terms "campus," "college," and "college facilities" for purposes of this chapter shall have the same meanings as those terms defined in WAC 132Z-140-010. The term "college grounds" for purposes of this chapter shall mean any parts of the campus subject to college control.

NEW SECTION

WAC 132Z-110-020 Prohibited conduct. Prohibited conduct includes engaging in, attempting to engage in, or encouraging or assisting another person to engage in, any of the conduct set forth in this section. As applicable, the term "conduct" includes acts performed by electronic means. The term "includes" or "including" as used in this section means "without limitation."

(1) **Alcohol, drug, and tobacco violations.**

(a) **Alcohol.** An "alcohol violation" includes using, possessing, delivering, selling, or being under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(b) **Marijuana.** A "marijuana violation" includes using, possessing, delivering, selling, or being under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form. While state law permits the recreational use of marijuana, federal law prohibits the possession or use of marijuana on college premises or in connection with college activities.

(c) **Drug.** A "drug violation" includes using, possessing, delivering, selling, or being under the influence of any legend drug or other controlled substance under chapter 69.50 RCW, except as prescribed by a licensed practitioner. The abuse, misuse, or unlawful sale or distribution of prescription or over-the-counter medications may also constitute a drug violation.

(d) **Tobacco.** A "tobacco violation" means smoking or using tobacco products, electronic smoking devices (including e-cigarettes or vape pens), or other smoking devices in any area of college premises where smoking or tobacco use is prohibited by law or college policy.

(2) **Personal offenses.** The term "personal offense" is an offense against the safety or security of any person and includes physical assault, reckless endangerment, physical or verbal abuse, threats, intimidation, harassment, bullying, stalking, invasion of privacy, or other similar conduct that harms any person, or that is reasonably perceived as threatening the health or safety of any person, or that has the purpose or effect of unlawfully interfering with any person's rights.

(3) **Property violations.** The term "property violation" includes the theft, misappropriation, unauthorized use or possession, vandalism, or other nonaccidental damaging or destruction of college property or the property of another person. Property for purposes of this subsection includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.

(4) **Disruptive or obstructive conduct.** The term "disruptive or obstructive conduct" means conduct, not protected by law, that interferes with, impedes, or otherwise unreasonably hinders the normal teaching, learning, research, administrative, or other functions, procedures, services, programs, or activities of the college. The term includes disorderly conduct, breach of the peace, violation of local or college noise policies, lewd or obscene conduct, and obstruction of pedestrian or vehicular traffic.

(5) **Failure to comply.** The term "failure to comply" means refusing to obey the lawful directive of authorized college officials, including a failure to identify oneself upon request, refusing to comply with a disciplinary sanction, or violating any no-contact or other protective order issued by or on behalf of the college.

(6) **Other unlawful activity.** Persons subject to this chapter must also comply with any other applicable college policies and with any applicable federal, state, or local laws, regulations, or ordinances.

NEW SECTION

WAC 132Z-110-030 Animals on campus. Pets are not permitted anywhere on college grounds or in college facilities.

ties. The term "pets" for purposes of this section does not include animals assisting differently abled persons or animals used for authorized college purposes. Animal owners or handlers must comply with any applicable posted regulations.

NEW SECTION

WAC 132Z-110-040 Weapons. Cascadia College prohibits the possession, display, or use of any firearm, explosive, dangerous chemical, or other weapon anywhere on college grounds or in college facilities, except for authorized college purposes, unless prior written approval has been obtained from the college president or president's designee in consultation with the director of campus safety. This prohibition does not apply to authorized law enforcement officers or to the lawful possession of any personal protection spray device authorized under RCW 9.91.160.

NEW SECTION

WAC 132Z-110-050 Violations—Trespass—Appeals. (1) **Violations by students or employees.** College students or employees violating these rules, or whose conduct jeopardizes the health or safety of others, will be advised of the specific nature of the violation and, if the violation persists, may be asked to leave the campus, or designated areas of the campus, and may be reported to the appropriate college authorities for potential corrective or disciplinary action in accordance with applicable college policies.

(2) **Violations by noncollege persons.** Persons other than college students or employees violating these rules, or whose conduct jeopardizes the health or safety of others, will be advised of the specific nature of the violation and, if the violation persists, may be directed by campus security to leave the campus or designated areas of the campus. Such direction will be in the form of a written notice of trespass withdrawing the license or privilege of such persons to enter onto or remain on college property and subjecting such persons to arrest for criminal trespass under chapter 9A.52 RCW or applicable municipal ordinance.

(3) **Appeal of trespass notice.** When the college under subsection (2) of this section revokes the license or privilege of any person to be on college property, whether temporarily or for a stated period of time, such person may request review of the decision by the college president or designee. The request must be made in writing within ten calendar days of receiving the trespass notice and must explain why the person disagrees with the trespass decision. The trespass notice will remain in effect pending administrative review. The administrative decision should be issued within five business days and will constitute the final decision of the college.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132Z-140-060 Trespass.

WAC 132Z-140-070 Prohibited conduct.

WAC 132Z-140-080 Pets.

WSR 20-09-109
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed April 16, 2020, 3:15 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-05-063.

Title of Rule and Other Identifying Information: WAC 458-20-103 Time and place of sale, the department proposes to revise the rule and retitle it: Gift certificates—Sale deemed to occur and retail sales tax collected at time of redemption.

Hearing Location(s): On May 26, 2020, at 10:00 a.m., at 6400 Linderson Way S.W., Conference Room 114A, Tumwater, WA 98501.

Date of Intended Adoption: June 2, 2020.

Submit Written Comments to: Tim Danforth (until April 30, 2020), P.O. Box 47453, Olympia, WA 98504-7453, email TimD@dor.wa.gov, fax 360-534-1606; after April 30, 2020, send written comments to Atif Aziz at AtifA@dor.wa.gov.

Assistance for Persons with Disabilities: Contact Julie King or Renee Cosare, phone 360-704-5733 or 360-704-5734, TTY 800-833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department plans to amend WAC 458-20-103 to remove provisions inconsistent with statutory authority and/or redundant with other rules, and to clarify existing law regarding the taxation of gift certificates. The proposed amended rule focuses on the timing and the measure of the retail sales tax on the redemption of gift certificates. Additional references to RCW 82.32.-023 (defining product) and 82.08.020 (defining selling price) are added for clarification. The rule is retitled to reflect its content.

Reasons Supporting Proposal: The department of revenue (DOR) would like to revise WAC 458-20-103 because it is no longer consistent with statutory authority and has been made redundant or replaced by other rules. See RCW 82.32.-730, 82.04.040, 82.04.067, 82.08.0531; WAC 458-20-108, 458-20-145, 458-20-211, 458-20-193, 458-20-221, 458-20-19401.

Statutory Authority for Adoption: RCW 82.32.300, 82.01.060(2).

Statute Being Implemented: RCW 82.04.040, 82.04.050.

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

Name of Proponent: DOR, governmental.

Name of Agency Personnel Responsible for Drafting: Tim Danforth, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1538; Implementation and Enforcement: John Ryser, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1605.

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. This rule is not a significant legislative rule as defined by RCW 34.05.328.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule language for WAC 458-20-103 provides information to

businesses regarding the timing and the measure of the retail sales tax on the redemption of gift certificates. The proposed rule does not impose more than minor costs on businesses, as it does not propose any new tax rate, tax measure, reporting or recordkeeping requirements not already established by statute.

April 16, 2020
Atif Aziz
Rules Coordinator

AMENDATORY SECTION (Amending WSR 82-12-021, filed 5/25/82)

WAC 458-20-103 ((Time and place of sale.)) Gift certificates—Sale deemed to occur and retail sales tax collected at time of redemption. ((Under the Revenue Act of 1935, as amended, the word "sale" means any transfer of the ownership of, title to, or possession of, property for a valuable consideration, and includes the sale or charge made for performing certain services.

For the purpose of determining tax liability of persons selling tangible personal property, a sale takes place in this state when the goods sold are delivered to the buyer in this state, irrespective of whether title to the goods passes to the buyer at a point within or without this state.

With respect to the charge made for performing services which constitute sales as defined in RCW 82.04.040 and 82.04.050, a sale takes place in this state when the services are performed herein. With respect to the charge made for renting or leasing tangible personal property, a sale takes place in this state when the property is used in this state by the lessee.

Where gift certificates are sold which will be redeemed in merchandise, or in services which are defined by the Revenue Act as retail sales, the sale is deemed to occur and the retail sales tax shall be collected at the time the certificate is actually redeemed for the merchandise or services. The measure of the tax is the total selling price of the merchandise or services at the time of the redemption, including the redemption value of the certificate, or any part thereof, which is applied toward the selling price. (See WAC 458-20-235 for effect of rate changes on prior contracts and sales agreements. See also WAC 458-20-131 which deals with merchandising games, and which covers the situation where certificates or trade checks are issued which may be redeemed for services which are not retail sales, such as barber services, admissions, etc.)

Revised March 2, 1982.) (1) **Tax timing.** A purchase of a product, as defined in RCW 82.32.023, or services made through the redemption of a gift certificate or gift card is deemed to occur for retail sales tax purposes at the time the certificate or card is actually redeemed for the product or services. Retail sales tax must be collected at the time of redemption.

(2) **Tax measure.** The measure of the tax is the total selling price of the product or services at the time of the redemption, including the redemption value of the certificate, or any part thereof, which is applied toward the selling price. See RCW 82.08.010 for the definition of selling price.

WSR 20-09-110
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed April 16, 2020, 3:52 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-21-158.

Title of Rule and Other Identifying Information: WAC 246-916-065 Athletic trainer suicide prevention education, the department of health is proposing creating a new section of rule to establish continuing education requirements on suicide prevention education for athletic trainers as required by ESSB 5688 (chapter 358, Laws of 2019).

Hearing Location(s): On May 28, 2020, at 10:00 a.m.

In response to the coronavirus disease 2019 (COVID-19) public health emergency, the department of health will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead.

To access the meeting:

Please join my meeting from your computer, tablet or smartphone. <https://global.gotomeeting.com/join/541045301>.

You can also dial in using your phone.

United States: +1 (571) 317-3112

Access Code: 541-045-301.

New to GoToMeeting? Get the app now and be ready when your first meeting starts: <https://global.gotomeeting.com/install/541045301>.

Date of Intended Adoption: June 4, 2020.

Submit Written Comments to: Bruce Bronoske, Jr., Washington State Department of Health, P.O. Box 47852, Olympia, WA 98504, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-4901, bruce.bronoske@doh.wa.gov, by May 28, 2020.

Assistance for Persons with Disabilities: Contact Bruce Bronoske, Jr., phone 360-236-4843, fax 360-236-4901, TTY 711, email bruce.bronoske@doh.wa.gov, by May 21, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: ESSB 5688 amends RCW 43.70.442 directing the secretary of health to adopt rules to establish a one-time continuing education and training requirement for athletic trainers on suicide prevention education. RCW 43.70.442 instructs the department to determine whether a three hour or a six hour education course should be required. The department determined that six hours was necessary in order to include content specific to the assessment of issues related to imminent harm via lethal means. The educational requirements proposed in this rule will increase athletic trainer's knowledge and understanding of suicide prevention and will better prepare athletic trainers if they encounter suicidal patients. It is the ultimate goal that this requirement will help save the lives of Washington residents.

Reasons Supporting Proposal: The educational requirements proposed in this new section will increase athletic trainer's knowledge and understanding of suicidal ideation and better prepare athletic trainers if they encounter suicidal patients. The goal of both ESSB 5688 and RCW 43.70.442 is

to save the lives of Washington residents, and the department proposes to achieve that goal through establishment of this rule.

Statutory Authority for Adoption: RCW 43.70.442 as amended by ESSB 5688 (chapter 358, Laws of 2019).

Statute Being Implemented: ESSB 5688 (chapter 358, Laws of 2019).

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

Name of Proponent: Washington state department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Bruce Bronoske, Jr., 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4843.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Bruce Bronoske, Jr., P.O. Box 47852, Olympia, WA 98504, phone 360-236-4843, fax 360-236-4901, TTY 711, email bruce.bronoske@doh.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rules do not impact businesses, only an individual's license.

April 16, 2020

Jessica Todorovich

Chief of Staff

for John Wiesman, DrPH, MPH

Secretary of Health

NEW SECTION

WAC 246-916-065 Athletic trainer suicide prevention education. Effective August 1, 2020, a licensed athletic trainer must complete a secretary-approved one-time training that is at least six hours in length for suicide assessment that includes screening, referral, and imminent harm via lethal means elements.

(1) This training must be completed by the end of the first full continuing education reporting period after August 1, 2020, or during the first full continuing education reporting period after initial licensure, whichever is later.

(2) Training accepted by the secretary must be on the department's model list as authorized in chapter 246-12 WAC, Part 14.

(3) Training completed between July 23, 2019, and August 1, 2020, that meets the requirements of subsection (2) or (3) of this section, is accepted as meeting the one-time training requirement of this section.

(4) The hours spent completing the training in suicide assessment under this section count toward meeting applicable continuing education requirements for athletic training license renewal.

WSR 20-09-129

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed April 21, 2020, 8:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-21-077.

Title of Rule and Other Identifying Information: The department is proposing amendments to WAC 388-446-0015 What is an intentional program violation (IPV) and administrative disqualification hearing (ADH) for basic food? and 388-446-0020 What penalties will I receive if I break a food assistance rule on purpose?

Hearing Location(s): On May 26, 2020, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington Street S.E., Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than May 27, 2020.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., May 26, 2020.

Assistance for Persons with Disabilities: Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by May 12, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Proposed amendments to WAC 388-446-0015 and 388-446-0020 will clarify that the waiver of administrative hearing and the disqualification consent agreement are separate documents.

Reasons Supporting Proposal: Proposed amendments to rule language are needed based on recent findings from the United States Department of Agriculture, Food and Nutrition Services and will support accurate administration of the basic food program.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.770, 74.08.090, 74.08.580, 74.12.260, 9.91.142; 7 C.F.R. § 271.2 and § 273.-16.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Carolyn Horlor, P.O. Box 45470, Olympia, WA 98504, 360-764-0676.

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. This amendment is exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "This section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility..."

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

Is exempt under RCW 34.05.328 (5)(b)(vii).

Explanation of exemptions: The proposed rules do not affect small businesses. They only affect DSHS clients.

April 16, 2020
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-03-054, filed 1/10/19, effective 2/10/19)

WAC 388-446-0015 What is an intentional program violation (IPV) and administrative disqualification hearing (ADH) for basic food? (1) An intentional program violation (IPV) is an act in which someone intentionally:

(a) Misrepresents, conceals, or withholds facts in order to be found eligible for benefits or to receive more benefits than their actual circumstances would allow including making a false statement regarding household circumstances;

(b) Acts in violation of the Food Nutrition Act of 2008, regulations for the supplemental nutrition assistance program (SNAP) under Title 7 of the Code of Federal Regulations, any state statute, or WAC relating to the use, presentation, transfer, acquisition, receipt, trafficking, or possession of food assistance benefits including; or

(c) Attempts to buy, sell, steal, or trade food assistance benefits issued and accessed via electronic benefit transfer (EBT) cards, EBT card numbers or personal identification numbers (PINs), for cash or anything other than eligible food, alone or acting with others.

(2) If we suspect someone has committed an IPV we refer their case for an administrative disqualification hearing (ADH), unless:

(a) The case is currently referred for prosecution; or

(b) A court or prosecutor already took action against the person for the same or related facts.

(3) An administrative disqualification hearing (ADH) is a formal hearing to determine if a person committed an IPV. ADHs are governed by the rules found in chapter 388-02 WAC. However, rules in this section are the overriding authority if there is a conflict.

(4) A person suspected of an IPV (~~can~~) may choose to waive their right to an ADH by signing a waiver of administrative disqualification hearing or a disqualification consent agreement that waives their right to the hearing and (~~accepts~~) accept the IPV penalty under WAC 388-446-0020.

(5) If someone commits one or more IPV's and is suspected of committing another, we refer them for an ADH when the act of suspected violation occurred:

(a) After we mailed the disqualification notice to the client for the most recent IPV; or

(b) After criminal proceedings for the most recent IPV are concluded.

(6) When we refer a case for an administrative disqualification hearing (ADH), the office of administrative hearings (OAH) sends the person notice of the ADH at least thirty days in advance of the hearing date. OAH sends the notice by

certified mail, or personal service. The notice will contain the following information:

(a) The date, time, and place of the hearing;

(b) The charges against the person;

(c) A summary of the evidence, and how and where they may examine the evidence;

(d) A warning that a decision will be based entirely on the evidence the department provides if they fail to appear at the hearing;

(e) A statement that the person has ten days from the date of the scheduled hearing to show good cause for failing to attend the hearing and to ask for a new hearing date;

(f) A warning that a determination of IPV will result in a disqualification period; and

(g) A statement that if we schedule a telephone hearing, they may request an in-person hearing by filing a request with the administrative law judge one week or more prior to the date of the hearing.

(7) The department may combine an ADH and a regular hearing when the reason for both hearings is related.

(8) The person or a representative has the right to one continuance of up to thirty days if a request is filed ten days or more prior to the hearing date.

(9) The administrative law judge (ALJ) will conduct the ADH and render a decision even if the person or representative fails to appear, unless within ten days from the date of the scheduled hearing:

(a) The person can show good cause for failing to appear; and

(b) The person or representative requests the hearing be reinstated.

(10) We may change a scheduled telephone hearing to an in-person hearing if this is requested by the person or department representative at least one week in advance. The person requesting a change less than one week in advance must show good cause for the requested change.

(11) The ALJ issues a final decision as specified in WAC 388-02-0215 through 388-02-0525. The decision determines whether the department had established with clear and convincing evidence that the person committed and intended to commit an IPV.

(12) The department and the client each have the right to request a reconsideration of the decision as specified in WAC 388-02-0610 through 388-02-0635. The final order or the reconsideration decision is the final agency decision.

(13) We will not implement a disqualification and continue benefits at the current amount if:

(a) The client can show good cause for not attending the hearing within thirty days from the date the disqualification notice was mailed; and

(b) An administrative law judge determines the client had good cause; or

(c) The client requests reconsideration or files a petition for judicial review to appeal the disqualification as specified in WAC 388-02-0530 (1) or (4).

AMENDATORY SECTION (Amending WSR 14-03-027, filed 1/8/14, effective 2/8/14)

WAC 388-446-0020 What penalties will I receive if I break a food assistance rule on purpose? (1) Breaking a rule on purpose for food assistance is known as an intentional program violation (IPV) under WAC 388-446-0015. These rules apply to all DSHS food assistance programs including:

- (a) Washington Basic Food program or Basic Food;
- (b) The Washington combined application project (WASHCAP) under chapter 388-492 WAC;
- (c) Transitional food assistance (TFA) under chapter 388-489 WAC; and
- (d) The state-funded food assistance program (FAP) for legal immigrants.

(2) You will have a disqualification period if we have shown that you have committed an IPV in any of the following three ways:

(a) We establish that you committed an IPV through an administrative disqualification hearing (ADH) under WAC 388-446-0015;

(b) You signed a waiver of administrative disqualification hearing or a disqualification consent agreement that waives your right to an administrative disqualification hearing and states you accept the IPV penalty; or

(c) A federal, state or local court found that you committed an IPV or found you guilty of a crime that breaks food assistance rules.

(3) **Special penalties for certain crimes** - If you are convicted in a court of law for crimes that are an intentional program violation, we disqualify you for the period of time set in the court order. If the court order does not state a disqualification period, we set a disqualification period based on the crime you were convicted of committing:

(a) **Drugs** - If you are convicted in a federal, state, or local court of trading or receiving food benefits for a controlled substance, we disqualify you:

- (i) For a period of twenty-four months for a first offense; and
- (ii) Permanently for a second offense.

(b) **Weapons** - If you are convicted in a federal, state, or local court of trading your food assistance benefits for firearms, ammunition, or explosives, we permanently disqualify you from receiving food assistance on the first offense.

(c) **Trafficking** - If you are convicted in a federal, state, or local court of knowingly buying, selling, trading, or presenting for redemption food assistance benefits totaling five hundred dollars or more, we permanently disqualify you from receiving food assistance on the first offense.

(d) **False identification** - If you are found to have provided false identification to receive benefits in more than one assistance unit, we disqualify you from receiving food assistance:

- (i) For ten years on the first offense.
- (ii) For ten years on the second offense.
- (iii) Permanently for the third offense.

(e) **Receiving benefits in more than one state** - If you are found to have provided false residency information to receive benefits in more than one household or state, we disqualify you from receiving food assistance:

- (i) For ten years on the first offense.

(ii) For ten years on the second offense.

(iii) Permanently for the third offense.

(4) In addition to penalties for crimes described in subsection (3), if you commit an IPV you will not be eligible for food assistance:

(a) For a period of twelve months for any first intentional program violation;

(b) For a period of twenty-four months for any second intentional program violation; and

(c) Permanently for any third intentional program violation.

(5) We only apply a disqualification penalty to the person or persons who have committed an intentional program violation.

(6) Start date of a disqualification. The date of a disqualification depends on how a person was disqualified. We will send you a letter telling you when your disqualification period will start((:)).

(a) **ADH or consent agreement** - If you were found to have committed an IPV in an administrative disqualification hearing or you signed ((#)) an ADH or consent agreement waiving this hearing and accepting the disqualification, we start the disqualification period by the second month after we sent you a letter informing you of the disqualification.

(b) **Conviction in court** - If you are convicted in court of a crime that is an intentional program violation, your disqualification period in subsection (4) is in addition to any civil or criminal penalties. We disqualify you from food assistance within forty-five days of the court order unless this timing conflicts with the court order.

(7) **Disqualifications apply in all states** - If you have an IPV disqualification, this stays with you until the penalty period is over, even if you move to another state:

(a) If we disqualify you from food assistance, you are also disqualified from receiving supplemental nutrition assistance program (SNAP) benefits in another state during the disqualification period.

(b) If you are disqualified from receiving SNAP benefits for an IPV from another state, you can't receive food assistance in Washington during the disqualification period.

(8) Even though we only disqualify the persons who have committed an IPV from receiving food assistance benefits, all adults in the assistance unit are responsible to repay any benefits you were overpaid as described under WAC 388-410-0020 and 388-410-0025.