

WSR 23-01-031
PROPOSED RULES
SPOKANE REGIONAL
CLEAN AIR AGENCY

[Filed December 12, 2022, 8:16 a.m.]

Original Notice.

Proposal is exempt under RCW 70A.15.2040.

Title of Rule and Other Identifying Information: Amend Spokane Regional Clean Air Agency (SRCAA) Regulation I, Article IV, Section 4.04(A), Article V, Section 5.02(I), and Article X, Section 10.15 (A) and (B).

Hearing Location(s): On Thursday, February 2, 2023, at 9:30 a.m., in-person at 1610 South Technology Boulevard, #101, Spokane, WA 99224; online Zoom URL link provided on board meeting agenda. Comment period from January 1, 2023, to February 2, 2023, ending at close of public hearing.

Date of Intended Adoption: February 2, 2023.

Submit Written Comments to: Margee Chambers, 1610 South Technology Boulevard, #101, Spokane, WA 99224, email PublicComment@spokane-cleanair.org, fax 509-477-6828, by February 2, 2023, close of hearing; submit comments by January 24, 2023, to be included in board packet.

Assistance for Persons with Disabilities: Contact Mary Kataoka, phone 509-477-4727 ext. #100, fax 509-477-6828, email mkataoka@spokane-cleanair.org, by January 30, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: SRCAA is proposing to remove marijuana producers and processors from the agency annual registration program. Proposed amendments include removing marijuana producers and processors from the source category list in Article IV, Section 4.04(A); removing marijuana producers and processors from the notice of construction exemption list in Article V, Section 5.02(I); and citing updates in Article X, Section 10.15 (A) and (B).

Reasons Supporting Proposal: The amendments will not affect SRCAA's ability to address future odor concerns from marijuana producers and marijuana processors. If adopted, marijuana producers and processors will not be part of the annual registration program, but they must still comply with SRCAA Regulation I, including but not limited to Article VI, Section 6.04 Emissions of an air contaminant detrimental to person, property, and Section 6.18 Standards for marijuana producers and processors. If a producer or processor has compliance issues with SRCAA Regulation I, the agency can pursue enforcement action and/or SRCAA's control officer can require registration under Article IV, Section 4.04 (A) (2) (c). The proposed amendments will allow SRCAA to reallocate staff to other programs. The proposed amendments will decrease the total local assessment cost that supplemented registration fees for marijuana producers and processors. The proposed amendments will not add new requirements for businesses and residents to meet.

Statutory Authority for Adoption: RCW 70A.15.2040.

Statute Being Implemented: Washington Clean Air Act, chapter 70A.15 RCW.

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, 1610 South Technology Boulevard, #101, Spokane,

509-477-4727; Implementation: Michelle Zernick, 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. A cost-benefit analysis under RCW 34.05.328 does not apply to local air pollution control agencies per RCW 70A.15.2040.

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

Is exempt under RCW 70A.15.2040.

Explanation of exemptions: Chapter 19.85 RCW applies to state agencies. Under RCW 70A.15.2040, local air pollution control agencies are not state agencies. SRCAA is a local air pollution control agency.

Scope of exemption for rule proposal:

Is fully exempt.

December 12, 2022
Margee Chambers
Rule Writer
SIP Planner

AMMENDATORY [AMENDATORY] SECTION IN ARTICLE IV

SECTION 4.04 STATIONARY SOURCES AND SOURCE CATEGORIES SUBJECT TO REGISTRATION

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

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

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

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

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

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

(2) Any stationary sources or source categories:

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

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

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

(3) Stationary sources with the following operations:

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

- (b) Acid production plants, including all acids listed in Chapter 173-460 WAC.
- (c) Agricultural chemicals, manufacturing, mixing, packaging or other related air contaminant emitting operations (fertilizer concentrates, pesticides, etc.).
- (d) Agricultural drying and dehydrating operations.
- (e) Alumina processing operations.
- (f) Ammonium sulfate manufacturing plants.
- (g) Asphalt and asphalt products production operations (asphalt roofing and application equipment excluded).
- (h) Brick and clay products manufacturing operations (tiles, ceramics, etc). Noncommercial operations are exempt.
- (i) Cattle feedlots with an inventory of one thousand or more cattle in operation between June 1 and October 1, where vegetation forage growth is not sustained over the majority of the lot during the normal growing season.
- (j) Chemical manufacturing operations.
- (k) Coffee roasting operations.
- (l) Composting operations except noncommercial agricultural and noncommercial residential composting activities.
- (m) Concrete production operations and ready mix plants.
- (n) Flexible polyurethane foam, polyester resin, and styrene production operations.
- (o) Flexible vinyl operations and urethane coating operations.
- (p) Fuel refining operations, blending operations, production operations, including alternative commercial fuel production facilities (e.g. ethanol, bio-diesel, etc.)
- (q) Gasoline and aviation gas storage and dispensing, including:
1. Gasoline dispensing facilities, subject to Chapter 173-491 WAC, and aviation gas dispensing facilities with total gasoline storage capacities greater than 10,000 gallons; and
 2. Bulk gasoline, and aviation gas terminals, bulk gasoline and aviation gas plants, and gasoline and aviation gas loading terminals.
- (r) Grainhandling; seed, pea, and lentil processing facilities. Registration shall be in accordance with Article IV, Section 4.03.
- (s) Haycubing or pelletizing operations established at a dedicated collection and processing site.
- (t) Insulation manufacturing operations.
- ~~((u) Marijuana producers.~~
- ~~(v) Marijuana processors with direct processing of the marijuana plant and plant material (dry, cure, extract, compound, convert, package and label usable marijuana and marijuana concentrates.))~~
- (u)~~((w))~~) Metal casting facilities and foundries, ferrous.
- (v)~~((x))~~) Metal casting facilities and foundries, nonferrous.
- (w)~~((y))~~) Metal plating and anodizing operations.
- (x)~~((z))~~) Metallurgical processing operations.
- (y)~~((aa))~~) Mills; grain, seed, feed and flour production, and related operations.
- (z)~~((bb))~~) Mills; lumber, plywood, shake, shingle, woodchip, veneer operations, dry kilns, pulpwood insulating board, grass/stubble pressboard, pelletizing, or any combination thereof.
- (aa)~~((ee))~~) Mills; wood products manufacturing operations (including, but not limited to, cabinet works, casket works, furniture, and wood by-products).
- (bb)~~((dd))~~) Mineral processing (metallic and nonmetallic), including, but not limited to, rock crushing, sand and gravel mixing op-

erations, except stand-alone rock, soil, or wood screening/conveying operations and blasting operations.

(cc) ~~((ee))~~ Mineralogical processing operations.

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

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

(ff) ~~((hh))~~ Perchloroethylene dry cleaning operations.

(gg) ~~((ii))~~ Pharmaceuticals production operations.

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

(ii) ~~((kk))~~ Portland Cement production facilities.

(jj) ~~((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.

(kk) ~~((mm))~~ Rendering operations.

(ll) ~~((nn))~~ Semiconductor manufacturing operations.

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

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

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

(pp) ~~((rr))~~ Surface coating operations:

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

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

(qq) ~~((ss))~~ Synthetic fiber production operations.

(rr) ~~((tt))~~ Synthetic organic chemical manufacturing operations.

(ss) ~~((uu))~~ Tire recapping operations.

(tt) ~~((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, bio-fuels, 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;)~~

~~9. ((10.))~~ Organic vapor collection systems within commercial or industrial facilities, including fume hoods;

~~10. ((11.))~~ Ovens, furnaces, kilns and curing with emissions other than combustion emissions;

~~11. ((12.))~~ Plasma or laser cutters;

~~12. ((13.))~~ Soil and groundwater remediation operations;

~~13. ((14.))~~ Sterilizing operations, including, but not limited to EtO and hydrogen peroxide, and other sterilizing operations;

~~14. ((15.))~~ Utilities, combination electric and gas, and other utility services (SIC 493/NAICS 221111 through 221210, not in order given);

~~15. ((16.))~~ Welding, brazing, or soldering operations; or

~~16. ((17.))~~ Wood furniture stripping and treatment operations (commercial only).

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Spokane Regional Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMMENDATORY [AMENDATORY] SECTION IN ARTICLE V

SECTION 5.02 NEW SOURCE REVIEW APPLICABILITY AND WHEN REQUIRED

(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 application must be filed by the owner or operator and an Order of Approval issued by the Agency prior to the establishment of any of the following stationary source or source categories:

(1) New stationary sources and source categories subject to the applicability criteria in Article IV, Section 4.04;

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

(3) Modifications to an existing stationary source which results in an increase in actual emissions or that requires an increase in either a facility-wide or a unit specific emission limit;

(4) A major modification to an existing major stationary source as defined in WAC 173-400-710 and 173-400-810;

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

(6) Like-kind replacement of existing emissions unit(s);

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

(8) A stationary source or emission unit(s) resuming operation after it has been closed per Article IV, Section 4.05;

(9) An existing stationary source that is relocated;

(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) Any stationary source the Agency determines must file a NOC application and obtain an Order of Approval in order to reduce the potential impact of air emissions on human health and safety, prevent injury to plant, animal life, and property, or which unreasonably interferes with enjoyment of life and property.

(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).

(E) Modification Review. New source review of a modification is limited to the emissions unit(s) proposed to be added or modified at an existing stationary source and the air contaminants whose 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.

(F) AOP Integrated Review. An owner or operator 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 required by Article V. A NOC application designated for integrated review must be processed in accordance with the provisions in Chapter 173-401 WAC.

(G) New Major Stationary Source or Major Modification in 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.

(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.

(I) Stationary Sources Exempt from Article V.

(1) The following stationary sources are exempt from the requirement to file a NOC application and obtain an Order of Approval, provided that the source has registered with the per Article IV, prior to placing the source in operation:

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

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

(b) ((e)) 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)].

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AMMENDATORY [AMENDATORY] SECTION IN ARTICLE X

SECTION 10.15 MARIJUANA PRODUCTION AND MARIJUANA PROCESSING REGISTRATION AND APPLICATION FEES

(A) Initial Registration Fee. Each source required by SRCAA Regulation I, Article IV, ~~((Exhibit R))~~ Section 4.01 to be registered is required to pay an initial registration fee for the first calendar year or portion of calendar year that the source is part of the Agency registration program. The owner or operator will be responsible for

payment of the initial registration fee. After the first year, the owner or operator will pay an annual registration fee under Section 10.15(B).

(1) The initial registration fee is determined by each unique LCB number, license type, and tier level. A separate initial registration fee is required for each unique LCB license number regardless of location. The initial registration fee will be determined by the fee table below:

Registration Fee Categories	LCB Producer Tier Size		
	LCB Tier 1	LCB Tier 2	LCB Tier 3
Producer with processor license	Per the Fee Schedule	Per the Fee Schedule	Per the Fee Schedule
Processor only	Per the Fee Schedule		
Producer only	Per the Fee Schedule		

LCB = WA State Liquor and Cannabis Board

(B) Annual Registration Fee. Each source required by Article IV, (~~Exhibit R~~) Section 4.01 to be registered is required to pay an annual registration fee for each calendar year or portion of each calendar year during which it operates. The owner or operator will be responsible for payment of the annual registration fee. Fees received as part of the marijuana registration program will not exceed the actual costs of program administration.

(1) The annual registration fee is required for each LCB licensed producer and LCB licensed processor. The fee is determined by each unique LCB number, license type, and tier level. A separate registration fee is required for each unique LCB license number regardless of location. The annual fee will be determined by the fee table below:

Registration Fee Categories	LCB Producer Tier Size		
	LCB Tier 1	LCB Tier 2	LCB Tier 3
Producer indoor only	Per the Fee Schedule	Per the Fee Schedule	Per the Fee Schedule
Producer outdoor only	Per the Fee Schedule	Per the Fee Schedule	Per the Fee Schedule
Producer indoor and outdoor	Per the Fee Schedule	Per the Fee Schedule	Per the Fee Schedule
Producer w/Agency granted production exemption	Per the Fee Schedule	Per the Fee Schedule	Per the Fee Schedule
Processor with producer license	Per the Fee Schedule		
Processor only	Per the Fee Schedule		

LCB = WA State Liquor and Cannabis Board

(2) Calculating Marijuana Annual Registration Fee without Required Registration Information. When registration information required in Article IV, Section 4.02 is not provided, the annual registration fee will be based on fees listed in Section 10.15 (B) (1), plus an additional fee equal to two (2) times the amount of original fee assessed. 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.