

**WSR 23-12-060
PERMANENT RULES
SPOKANE REGIONAL
CLEAN AIR AGENCY**

[Filed June 2, 2023, 10:21 a.m., effective July 15, 2023]

Effective Date of Rule: July 15, 2023.

Purpose: The 2020 legislative change to Title 70 RCW renumbered the Washington Clean Air Act from chapter 70.94 RCW to chapter 70A.15 RCW. The Spokane regional clean air agency (SRCAA) amended Regulation I to update the RCW citing as well as to correct typographical errors; provide clarification; align the wood heating exemption to RCW 70A.15.3580; separate late fee from penalty fee; update formatting in Article III and VIII; and update adoption by reference. The amendments did not change fees or add new requirements for businesses or residents to meet.

The proposed amendments are necessary to support SRCAA's implementation of the Washington Clean Air Act. The amendments will allow SRCAA to meet the state legislature's deadline for agencies to update the RCW citing in agency regulations. The amendments anticipated effects include improved readability, accurate citing, and alignment of SRCAA's local regulations to state rules and regulations.

Citation of Rules Affected by this Order: Amending SRCAA Regulation I, Articles I, II, III, IV, V, VI, VIII, and X.

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

Adopted under notice filed as WSR 23-07-092 on April 5 [March 17], 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 41, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 1, 2023.

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**SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA)
AMENDMENTS TO SRCAA REGULATION I, ARTICLES I, II, III, IV, V, VI,
VIII, and X**

AMENDATORY SECTION
SECTION 1.01 POLICY

(A) Agency and Jurisdiction. The Agency, whose jurisdiction is coextensive with the boundaries of Spokane County, having been activated pursuant to the Washington Clean Air Act (WCAA), Chapter ((70.94)) 70A.15 RCW as amended, shall be known and cited as "Spokane Regional Clean Air Agency," and hereinafter may be cited as "SRCAA", or the "Agency". The Agency adopts the following Regulation I to control the

emissions of air contaminants from all stationary sources within the jurisdiction of the Agency; to provide for the uniform administration and enforcement of the Agency's Regulation I; and to carry out the requirements and purposes of the WCAA.

(B) Public Policy.

(1) It is hereby declared that the Agency adopts public policy per RCW 70A.15.1005 (~~to be the public policy of the 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 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 Agency's Regulation I constitutes a restatement of the requirements and purposes of Chapter (~~70.94~~) 70A.15 RCW, it is the intent of the 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 Agency to be more stringent, is intended for purposes of clarity. As provided in Chapter (~~70.94~~) 70A.15 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~~) 70A.15.2040 and RCW (~~70.94.331~~) 70A.15.3000. 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 1.04 GENERAL DEFINITIONS

(A) Unless otherwise defined in an Article of Regulation I, the following definitions apply to all of 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 (a) through (c) below.

(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 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.

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

(c) For any emissions unit ((7)) 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 "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.

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

(5) *Air Pollutant* means the same as "Air 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 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:

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

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

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

(9) *Alteration* means to change or make different. Alteration includes, but is not limited to, any enlargement, replacement, change in the design, operation, capacity, or process arrangement, increase in the connected loading of process or control equipment, 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 the same as "Agency".

(15) *Begin Actual Construction or Establishment* means, in general, initiation of physical on-site construction activities on a new stationary source, emission 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)) 70A.15 RCW emitted from, or which results from, any new or modified stationary source, which the Agency, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such 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 BACT result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard under 40 CFR Parts 60, 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 Toxic Best Available Control Technology (tBACT)* means an emission limitation applied to each, or each mixture of, Toxic Air Pollutants (TAPs) identified in Chapter 173-460 WAC discharged, taking into 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), 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)~~) 70A.15.2240 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* means permanently stopping or terminating all processes that produce air contaminant emissions at a stationary source or emissions unit.

(24) *Combustion and Incineration Unit* means 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:

(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

(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, installation, demolition, or modification of an emissions unit), which would result in a change in actual emissions.

(28) *Control Equipment* means any 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 ambient air.

(29) *Control Officer* means the Air Pollution Control Officer for the Spokane Regional Clean Air Agency (SRCAA) or 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, including (~~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 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~~) 70A.15 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 FCAA or Chapter (~~70.94~~) 70A.15 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) per the Federal Clean Air Act (FCAA), the Washington State Clean Air Act (WCAA), Chapter (~~70.94~~) 70A.15 RCW, the Washington Nuclear Energy and Radiation Act, Chapter (~~70.98~~) 70A.388 RCW, or the 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~~) 70A.15.6010.

(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 7401 et seq., as amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990 and subsequent amendments.

(45) *Federally Enforceable* means all limitations and conditions which are enforceable by the Environmental Protection Agency (EPA), including those requirements developed 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 Order of Approval under a SIP approved new source review regulation, or any voluntary limits on emissions in an Order issued under 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 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)* 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, stated 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 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 (emission 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:

(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

(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.

(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.

(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, 42 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.

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

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

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

(c) Restart of a stationary source after closure;

(d) Relocation of a stationary source to a new location;

(e) Like-kind replacement of existing emission 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.

(69) *New Source Performance Standards (NSPS)* means the 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:

(a) Except as provided in Article I, Section 1.04 (A) (71) (b), a nonroad engine is any internal combustion engine:

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

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

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

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

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

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

3. The engine otherwise included in 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 replace an engine at a location and 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* means a written application to allow construction of a new source, modification of an existing stationary source, or replacement or substantial alteration of control technology at an existing stationary source.

(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.

(76) *Order* means any order issued or adopted by Ecology or the Agency under Chapter ((70.94)) 70A.15 RCW, including, but not limited to RCW ((70.94.332, 70.94.152, 70.94.153, 70.94.154,)) 70A.15.2040(3), 70A.15.2210, 70A.15.2220, 70A.15.2230, and 70A.15.3010 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* means a regulatory order issued by Ecology or the 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 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.

(85) *Permission to Operate* means a regulatory order issued by the Agency to approve the Portable Source Permit (PSP) Application for the operation and relocation of a proposed portable source in Spokane County.

(86) *Permitting Authority or Permitting Agency* means Ecology or the Agency with jurisdiction over the source.

(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 [m]) 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 [m]) 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 [m]) 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 [m]) 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 Agency.

(93) *Portable Source* means a type of stationary source that emits 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.

(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-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 enforceable. Secondary emissions are not included in determining the PTE of a stationary source.

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

(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 by Ecology or the Agency that requires compliance with any applicable provisions of Chapter ((70.94)) 70A.15 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.

(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 under RCW ((70.94.030))

70A.15.1030(21), (~~(70.94.6534)~~) 70A.15.5120, (~~(70.94.6540)~~)
70A.15.5150, 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.

(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)~~) 70A.15 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.

(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.

(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).

(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 source whose potential-to-emit has been limited below applicable thresholds by means of an enforceable order, rule, or approval condition.

(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 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 toxic air pollutant listed in 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 Chapter 173-460 WAC. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.

(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.

(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.

(125) *Volatile Organic Compound (VOC)* means the same as defined in 40 CFR 51.100 for the purposes of Regulation I.

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 2.01 POWERS AND DUTIES OF THE BOARD

(A) Board Procedures and Actions. Pursuant to, and consistent with, the provisions of the Washington Clean Air Act (WCAA) Chapter ((70.94)) 70A.15 RCW, the Board shall establish such procedures and take such action as may be required to implement SRCAA Regulation I, Article I, Section 1.01. The Board may take such action as may be necessary to prevent air pollution, including control and measurement of the emission of any air contaminant from a source. The Board shall appoint a Control Officer, competent in the control of air pollution who shall, with the Board's advice and approval, enforce the provisions of all ordinances, orders, resolutions, rules, and regulations of this Agency, pertinent to the control and prevention of air pollution in Spokane County.

(B) Hearings. The Board shall have the power to hold hearings relating to any aspect of or matter in the administration of 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) 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, orders, and regulations as soon as adopted by the Board. (See RCW ((~~70.94.141~~)) 70A.15.2040)

AMENDATORY SECTION

SECTION 2.03 CONFIDENTIAL OR PROPRIETARY INFORMATION

The Agency implements and enforces RCW ((~~70.94.205~~)) 70A.15.2510 - Confidentiality of records and information.

AMENDATORY SECTION

SECTION 2.04 VIOLATIONS

The Agency implements and enforces RCW ((~~70.94.211~~)) 70A.15.2520 - Enforcement actions by air authority - Notice to violators.

AMENDATORY SECTION

SECTION 2.05 ORDERS AND HEARINGS

The Agency implements and enforces RCW ((~~70.94.221~~)) 70A.15.2530 - Order final unless appealed to pollution control hearings board.

AMENDATORY SECTION

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

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

(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 Agency if the purpose of such reproduction or alteration is to circumvent, evade, or violate any provision of Chapter ((~~70.94~~)) 70A.15 RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto.

(C) Available for Review. Any order or registration certificate required to be obtained by Chapter ((~~70.94~~)) 70A.15 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) Notice to be Displayed. In the event the 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 Agency.

(E) False Statements. No person shall make any false material statement, representation, or certification in any form, notice or report required under Chapter ((~~70.94~~)) 70A.15 RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto.

(F) Render Inaccurate. No person shall render inaccurate any monitoring device or method required under Chapter ((~~70.94~~)) 70A.15 RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto.

AMENDATORY SECTION

SECTION 2.11 PENALTIES, CIVIL PENALTIES, AND ADDITIONAL MEANS FOR ENFORCEMENT

The Agency implements and enforces RCW (~~(70.94.430)~~) 70A.15.3150 - Penalties, RCW (~~(70.94.431)~~) 70A.15.3160 - Civil penalties, and RCW (~~(70.94.435)~~) 70A.15.3170 - Additional means of enforcement.

AMENDATORY SECTION

SECTION 2.12 RESTRAINING ORDERS - INJUNCTIONS

The Agency implements and enforces RCW (~~(70.94.425)~~) 70A.15.3140 - Restraining orders - Injunctions.

AMENDATORY SECTION

SECTION 2.13 FEDERAL AND STATE REGULATION REFERENCE DATE

(A) Federal Adoption by Reference. Federal rules in SRCAA Regulation I are adopted as they exist on (~~(January 1, 2020)~~) January 1, 2023.

(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)~~) January 1, 2023, or as amended(~~(, unless a different date is listed in Section 2.14)~~).

AMENDATORY SECTION

SECTION 2.14 WASHINGTON ADMINISTRATIVE CODES (WACS)

(A) The Agency adopts by reference the following 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 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.
 - (2) Chapter 173-401 WAC - Operating permit regulation.
 - (3) Chapter 173-425 WAC - Outdoor burning.
 - (4) Chapter 173-430 WAC - Agricultural burning.
 - (5) Chapter 173-433 WAC - Solid fuel burning devices.
 - (6) Chapter 173-434 WAC - Solid waste incinerator facilities.

- (7) Chapter 173-435 WAC - Emergency episode plan.
- (8) Chapter 173-460 WAC - Controls for new sources of toxic air pollutants.
- (9) Chapter 173-476 WAC - Ambient air quality standards.
- (10) Chapter 173-490 WAC - Emission standards and controls for sources emitting volatile organic compounds (VOC).
- (11) Chapter 173-491 WAC - Emission standards and controls for sources emitting gasoline vapors.
- (12) Chapter 197-11 WAC - SEPA Rules

NEW SECTION

SECTION 2.20 40 CFR PART 62 - APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

(A) The Agency adopts by reference these subparts of 40 CFR Part 62, in effect on the date referenced in Section 2.13.

(1) Subpart 000, Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014.

AMENDATORY SECTION

SECTION 3.01 VARIANCES - APPLICATION FOR - CONSIDERATIONS - LIMITATIONS - RENEWALS - REVIEW

~~((A-))~~ (A) Applicability (RCW ~~((70.94.181))~~ 70A.15.2310). Any person, or group of persons, who is directly impacted by ~~((any))~~ SRCAA ~~((rule or regulation))~~ Regulation I, may apply to the Board for a variance from rules or regulations governing the quality, nature, duration or extent of discharges of air contaminants. The application shall be accompanied by such information and data as the Board may require. The total time period for a variance and renewal of such variance shall not exceed one year.

~~((B-))~~ (B) General Process. The Board may grant a variance from ~~((to))~~ SRCAA Regulation I. However, if the variance sought also requires a variance from state rules, Ecology must first issue its approval of the variance in writing.

~~((1-))~~ (1) If the variance pertains to ~~((a))~~ SRCAA ~~((regulation))~~ Regulation I only, the applicant must submit the variance application to SRCAA and the decision to approve or deny the variance will be made by the Board.

~~((2-))~~ (2) If the variance pertains to ~~((a))~~ SRCAA ~~((regulation))~~ Regulation I and a state rule, the applicant must submit the variance application concurrently to both SRCAA and Ecology. If approved by Ecology, the variance application may then be reviewed and processed by SRCAA with the decision to approve or deny the variance being made by the Board. Approval of such a variance is contingent upon approval by both Ecology and SRCAA. If denied by Ecology, SRCAA will not make a determination on ~~((review))~~ the variance request.

~~((a-))~~ (a) Per 40 CFR 52.2476(b), any change to a provision of the state implementation plan described in 40 CFR 52.2476(a) must be submitted by Ecology for approval by EPA in accordance with the requirements of 40 CFR 51.104. In accordance with 40 CFR 51.104, variances approved under ~~((this))~~ Article III ~~((shall))~~ will not be included in orders or permits provided for in RCW ~~((70.94.152))~~ 70A.15.2210 (Notice of Construction) or RCW ~~((70.94.161))~~ 70A.15.2260 (Operating Permits) until such time as the variance has been accepted by the EPA as part of an approved State Implementation Plan in 40 CFR Part 52, subpart WW.

~~((C-))~~ (C) Conditions for Granting a Variance.

~~(1)~~ Pursuant to RCW ~~((70.94.181))~~ 70A.15.2310(1), variances may be issued by the Board if it finds that:

~~(1-))~~ (a) The emissions occurring or proposed to occur do not endanger public health, safety, or the environment; and

~~(2-))~~ (b) Compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(2) The interests of the applicant, other owners of property likely to be affected by the emissions, and the general public must also be considered pursuant to Section 3.01~~((E-))~~ (E) and RCW ~~((70.94.181))~~ 70A.15.2310(2).

~~((D-))~~ (D) Complete Application. In addition to the requirements of Section 3.01~~((A-))~~ (A) ~~((above))~~, applicants seeking a variance must submit an accurate and complete application. Application must be made using ~~((forms provided by))~~ SRCAA prepared and furnished forms. An application is not deemed complete until all of the information identified below is received. At a minimum, applicants must submit all of the following information:

~~(1-))~~ (1) A list of interested parties and neighbors within five hundred (500) feet or more of the property on which the variance is proposed to occur, including mailing addresses, or as deemed necessary by the Control Officer.

~~(2-))~~ (2) The specific laws and/or regulations from which a variance is being sought.

~~(3-))~~ (3) How compliance with rules or regulations from which the variance is sought would produce serious hardship to the applicant without equal or greater benefits to the public.

~~(4-))~~ (4) An explanation of the time period for which the variance is sought; not to exceed one (1) year.

~~(5-))~~ (5) How the applicant will comply with the applicable laws and/or regulations following expiration of the variance so as to alleviate the need for a renewal of a variance, if one is approved.

~~(6-))~~ (6) An explanation, if applicable, as to why there is no practicable means known or available for the adequate prevention, abatement or control of the pollution involved.

~~(7-))~~ (7) If alternatives are available, what the cost of the alternatives are. Supporting documentation must be provided.

~~(8-))~~ (8) Detailed maps of the site subject to the variance application.

~~(9-))~~ (9) Any additional information requested by SRCAA prior to, during, or following submittal of the application.

~~((10-))~~ (10) The variance application must be complete and accurate and a statement to this effect by the applicant must be included in the application. Incomplete or inaccurate applications may be returned to the applicant for completion or correction.

~~((11-))~~ (11) If the variance application requires Ecology's approval pursuant to Section 3.01~~((B-))~~ (B), the applicant must demonstrate to SRCAA that a variance application has been approved by Ecology (i.e. by submitting a copy of Ecology's written decision ~~((to approve the variance))~~ to SRCAA).

~~((E-))~~ (E) Public Notice and Public Hearing.

(1) Variance may be issued only after public involvement per ~~((WAC 173-400-171))~~ SRCAA Regulation I, Article V, Section 5.05. No variance shall be granted pursuant to this section until the Board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general pub-

lic. The Board shall conduct a fact-finding public hearing, upon due notice being published and sent to all interested parties within five hundred (500) feet of the property on which the variance is proposed. The Control Officer may require notice to parties beyond five hundred (500) feet, if deemed necessary. A thirty (30) (-) calendar day advance public notice shall be published in a newspaper of general circulation in the area of the proposed variance and shall include the following information:

~~(1.)~~ (a) The time, date, and place of the hearing;

~~(2.)~~ (b) The name and address of the owner or operator and the source;

~~(3.)~~ (c) A brief description of the variance request; and

~~(4.)~~ (d) The deadline for submitting written comments to SRCAA.

(2) For variances that pertain to SRCAA Regulation I and a state rule, ~~((from state rules,))~~ SRCAA may determine that public notice and public hearing conducted by Ecology under WAC 173-400-171 satisfies the provision in ~~((WAC 173-400-171))~~ Article V, Section 5.05.

~~(F.)~~ (F) Variance Limitations. Any variance or renewal thereof shall be granted within the requirements of Section 3.01 ~~((.A and C of this Regulation))~~ (A) and (C) for not more than one (1) year under conditions consistent with the reasons therefore, and within the following limitations:

~~(1.)~~ (1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available, and subject to the taking of any substitute or alternate measure that the Board may prescribe.

~~(2.)~~ (2) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time, as in the view of the Board, is requisite for the taking of the necessary measures. A variance granted on the ground specified herein, shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.

~~(3.)~~ (3) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in Sections 3.01 ~~((.F.1 and 3.01.F.2 of this Regulation))~~ (F) (1) and (2), it shall be for not more than one (1) year.

~~(G.)~~ (G) Renewal. Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the Board on account of the variance, no renewal thereof shall be granted unless, following a public hearing on the complaint on due notice, the Board finds that renewal is justified. No renewal shall be granted except on application therefore. Any such application shall be made at least sixty (60) days prior to the expiration of the variance. Immediately upon receipt of a complete and accurate application for renewal, the Board shall give public notice of such application in accordance with rules and regulations of Ecology or SRCAA.

~~(H.)~~ (H) Appeal Process. A variance or renewal shall not be a right of the applicant or holder thereof, but shall be granted at the discretion of the Board. However, any applicant adversely affected by the denial or the terms and conditions of the granting of an application for a variance or renewal of a variance by the Board, may obtain

judicial review thereof only under the provisions of Chapter 34.05 RCW, as of the effective date of this regulation or thereafter amended.

~~((I.))~~ (I) Emergency Provisions. Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of RCW ~~((70.94.710))~~ 70A.15.6000 through ~~((70.94.730))~~ 70A.15.6040 (Air Pollution Episodes) to any person or his or her property.

~~((J.))~~ (J) Processing Period. Unless the applicant and the Board agree to a continuance, an application for a variance, or for the renewal thereof, submitted to the Board pursuant to Section 3.01~~((B.1))~~ (B)(1) shall be approved or disapproved by the Board within sixty-five (65) days of SRCAA determining that the application for a variance is accurate and complete and receiving the filing fee referenced in Section 3.02~~((A))~~ (A). If approval from Ecology is required per Section 3.01~~((B.2))~~ (B)(2), and unless the applicant and the Board agree to a continuance, approval or denial by the Board shall occur within sixty-five (65) days of receipt of all of the following: an accurate and complete application, Ecology's written decision to approve the variance, and the filing fee referenced in Section 3.02~~((A))~~ (A).

AMENDATORY SECTION

SECTION 3.02 FEES

~~((A.))~~ (A) Fees. Except as provided in Section 3.02~~((B))~~ (B), below, the filing fees, all legal fees, legal notice fees, and all hourly fees incurred by SRCAA must be paid by the applicant regardless of whether the variance is granted, denied, or determined to be incomplete.

~~((1.))~~ (1) Filing Fees. For applications submitted pursuant to Section 3.01~~((B.1))~~ (B)(1) (SRCAA~~((only regulations))~~ Regulation I only), a filing fee as specified in SRCAA Regulation I, Article X, Section 10.08 ((of this Regulation and SRCAA's fee schedule)) and Section 10.08 of the Consolidated Fee Schedule shall be submitted at the time of application and shall be applied to the final invoice fee. For applications submitted pursuant to Section 3.01~~((B.2))~~ (B)(2) (SRCAA~~((regulations))~~ Regulation I and Ecology rules), a filing fee as specified in Section 10.08 in Article X and ((of this Regulation and SRCAA's fee schedule)) in the Consolidated Fee Schedule shall be submitted at the same time Ecology's written approval is submitted to SRCAA pursuant to Section 3.01~~((J))~~ J and shall be applied to the final invoice fee.

~~((2.))~~ (2) Legal Fees/Legal Notice Fees. The applicant shall also be responsible to pay all legal fees incurred by SRCAA directly attributed to the application for a variance and costs associated with any legal notice(s) required pursuant to ~~((this))~~ Article III.

~~((3.))~~ (3) Hourly Fees. An hourly fee, as established in Section 10.08 ~~((of this Regulation and SRCAA's fee schedule))~~ of the Consolidated Fee Schedule, shall also be assessed to, and paid by, the applicant for applications reviewed by SRCAA pursuant to ~~((this))~~ Article III.

~~((B.))~~ (B) Reduced Fees or Refunds. The applicant may request that some portion of the variance fees be waived or refunded if it is demonstrated to the Board that SRCAA's variance application process ~~((didn't))~~ did not fully and accurately inform the applicant of the variance process described in Sections 3.01-3.02~~((A))~~ (A) ~~((of this~~

Regulation)). Such request must be made in writing no later than thirty (30) days after denial or approval of the variance by the Board. Any fee reductions or refunds shall be at the full discretion of the Board.

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 4.01 REGISTRATION REQUIRED

(A) Stationary Source Registration. The Agency regulates the classes of stationary sources and source categories listed in SRCAA Regulation I, Article IV, Section 4.04, under the authority of RCW (~~(70.94.151)~~) 70A.15.2200. A stationary source listed in Section 4.04, whether publicly or privately owned, must register with the Agency, unless exempted under Article IV, Section 4.03.

(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 4.04 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 General Order of Approval (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) Hay cubing or pelletizing operations established at a dedicated collection and processing site.

(t) Insulation manufacturing operations.

(u) Metal casting facilities and foundries, ferrous.

(v) Metal casting facilities and foundries, nonferrous.

(w) Metal plating and anodizing operations.

(x) Metallurgical processing operations.

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

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

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

(bb) 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.

(cc) Mineralogical processing operations.

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

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

(ff) Perchloroethylene dry cleaning operations.

(gg) Pharmaceuticals production operations.

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

(ii) Portland Cement production facilities.

(jj) 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) Rendering operations.

(ll) Semiconductor manufacturing operations.

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

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

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

(pp) 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) Synthetic fiber production operations.

(rr) Synthetic organic chemical manufacturing operations.

(ss) Tire recapping operations.

(tt) 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)~~) 70A.15.4510;

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

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

11. Plasma or laser cutters;

12. Soil and groundwater remediation operations;

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

14. Utilities, combination electric and gas, and other utility services (SIC 493/NAICS 221111 through 221210, not in order given);
15. Welding, brazing, or soldering operations; or
16. Wood furniture stripping and treatment operations (commercial only).

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 5.02 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 subject to the applicability criteria in Article IV, Section 4.04, 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 mod-

ification 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)) 70A.15.2260, 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 Agency 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) 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.

(c) General surface coating operations that only use non-spray application methods (e.g., roller coat, brush coat, flow coat, or pre-packaged aerosol can) with PTE emissions above the thresholds listed in Article IV, Section 4.04 (A) (3) (pp)2., but below thresholds presented in Sections 4.04 (A) (5) (a - d).

(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 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 5.04 INFORMATION REQUIRED

(A) NOC and PSP Information. Each NOC application or PSP application must 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)) 70A.15 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 must include:

- (1) The new or modified stationary source, portable source, emissions unit, or control equipment;
- (2) Any equipment connected to, serving, or served by the new or modified stationary source or portable source;
- (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 Agency, from the place where the new or modified stationary source or portable source 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 Agency to determine the expected emissions;
- (6) Any additional information required by the 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)) 70A.15 RCW, the rules and regulations adopted thereunder, and the Agency's regulation(s);
- (7) Any additional information required under WAC 173-400-112 or WAC 173-400-113; and
- (8) The owner or operator must provide documentation that the requirements of Chapter 197-11 WAC, State Environmental Policy have been met. If the Agency is the lead agency for review of an Environmental Checklist (SEPA) or EIS related to the NOC or PSP application being submitted, then the owner or operator filing the SEPA must pay a SEPA review fee according to SRCAA Regulation I, Article X, Section 10.07. This fee must be paid without regard to the final SEPA determination. The cost of publishing any required public notice must be paid by the owner or operator.

(B) Signature. Each NOC or PSP application must be signed by the owner or operator of the new or modified stationary source or portable source.

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.

(B) Public Notice of Application.

(1) A notice must be published on the Agency's website announcing the receipt of NOC applications and PSP applications. Notice will be published for a minimum fifteen (15) consecutive days. Duration does not require uninterrupted website access. Each notice will include the following information:

(a) Notice of the receipt of the application;

(b) The type of proposed action; and

(c) A statement that the public may request a public comment period on the proposed action per Article V, Section 5.05 (B) (2).

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

(a) A thirty (30) day public comment period must be provided per Article V, Section 5.05(D) 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.

(C) Mandatory Public Comment Period. A thirty (30) day public comment period must be provided per Article V, Section 5.05(D) before approving or denying any of the following:

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

(5) ~~Any~~ An order to determine RACT;

(6) An order to establish a compliance schedule or a variance. A variance shall be in accordance with Regulation I, Article III;

(7) An 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) An order to authorize a bubble, under RCW (~~70.94.155~~) 70A.15.2240 and WAC 173-400-120;

(9) An action to discount the value of an ERC, issued to a source per WAC 173-400-136;

(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) An order issued under WAC 173-400-091 that establishes limitations on PTE;

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

(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) An NOC application or other proposed action for which the Agency determines there is a significant public interest.

(D) Public Comment Period.

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

(2) Availability for public inspection.

(a) Administrative record. The information submitted by the owner or operator, and any applicable preliminary determinations, including analyses of the effect(s) on air quality, must be available for public inspection in at least one (1) location near the proposed project or on the Agency website for the duration of the public comment period. Duration does not require uninterrupted website access.

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

(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 website for the duration of the public comment period. Duration does not require uninterrupted website access.

(b) The Agency may supplement Agency website 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.

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

(a) Date the public notice is posted;

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

(c) 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) The location where those documents made available for public inspection may be reviewed;

(f) Start date and end date for the thirty (30) day public comment period;

(g) A statement that a public hearing may be held if the 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, the public notice must explain the Agency's decision; and

(j) Any other information required under state or federal laws or regulations.

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

(6) EPA 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.

(7) Consideration of public comment. The Agency must make a final decision after the public comment period has ended and comments timely received have been considered.

(8) Public hearings.

(a) The owner or operator, any interested governmental entity, group, or 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 indicate the interest of the entity filing it and why a hearing is warranted.

(b) The Agency may hold a public hearing if it determines significant public interest exists. The Agency will determine the location, date, and time of the public hearing. If a public hearing is held, the public comment period 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 website as directed by Section 5.05 (D) (4) for the duration of the public comment period. Duration does not require uninterrupted website 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 website 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) Public Involvement for Integrated Review with an Air Operating Permit. Any NOC application designated for integrated review with

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

(F) Other Requirements of 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).

(G) Information for Public Review. All information must be made available for public inspection at the Agency, including copies of NOC applications, Orders of Approval, regulatory orders, and modifications thereof. Exemptions from this requirement include information protected from disclosure under any applicable law, including, but not limited to, RCW ((70.94.205)) 70A.15.2510 and Regulation I, Article II, Section 2.03.

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 5.07 PROCESSING NOC APPLICATIONS FOR STATIONARY SOURCES

(A) For New or Modified Stationary Sources.

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

(a) ((The requirements of)) WAC 173-400-112 - Requirements for new sources in nonattainment areas—Review for compliance with regulations;

(b) ((The requirements of)) WAC 173-400-113 - New sources in attainment or unclassifiable areas—Review for compliance with regulations;

(c) ((The requirements of)) WAC 173-400-117 - Special protection requirements for federal Class I areas;

(d) ((The requirements of)) Article V, Section 5.05;

(e) ((The requirements of)) WAC 173-400-200 - Creditable stack height and dispersion techniques and WAC 173-400-205 - Adjustment for atmospheric conditions;

(f) ((The requirements of)) WAC 173-400-800 - Major stationary source and major modification in a nonattainment area through WAC 173-400-860 -Public involvement procedures;

(g) ((The requirements of)) Chapter 173-460 WAC - Controls for new sources of toxic air pollutants; 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, the Agency must either issue a final determination on the application or, when required, initiate public notice and comment procedures under Article V, Section 5.05. The Agency must issue a final determination as promptly as possible after the close of the comment period.

(3) The final determination may include:

(a) An Order of Denial, if the proposal is not in accordance with Chapter ((70.94)) 70A.15 RCW, the rules and regulations adopted thereunder, and the Agency's regulation(s); or

(b) An Order of Approval which may provide reasonable conditions necessary to assure compliance with Chapter ((70.94)) 70A.15 RCW, the rules and regulations adopted thereunder, and the Agency's regulation(s).

(4) The final determination on a NOC application must be reviewed and signed by a professional engineer prior to issuance.

(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) 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, the Agency must:

(a) Submit any LAER control equipment determination included in a final Order of Approval to the RACT/BACT/LAER Clearinghouse maintained by the EPA; and

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

(7) The owner or operator of a stationary source must not begin actual construction((~~r~~)) until the Agency approves the NOC application and issues an Order of Approval.

(B) Replacement or Substantial Alteration of Control Equipment. An owner or operator proposing to replace or substantially alter the control equipment installed on an existing stationary source or emission unit must file a NOC application with the 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.

(1) Within thirty (30) days of receipt of a complete NOC application, the Agency must issue a final determination. The final determination may include:

(a) An Order of Approval;

(b) An Order of Denial; or

(c) A proposed RACT determination for the project per WAC 173-400-114.

(2) The final determination may:

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

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

(c) Prescribe other requirements as authorized by Chapter ((70.94)) 70A.15 RCW.

(3) The final determination on a NOC application must be reviewed and signed by a professional engineer prior to issuance.

(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 proposed action. The order must include a notice advising the parties of their rights of appeal to the PCHB.

(5) Construction shall not commence until the Agency approves the NOC application and issues an Order of Approval. However, any NOC application, filed under Section 5.07(B), shall be deemed to be approved

without conditions, if the Agency takes no action within thirty (30) days of receipt of a complete application.

AMENDATORY SECTION

SECTION 5.08 PORTABLE SOURCES

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

(1) 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 listed in Article IV, Section 4.04 Stationary sources and source categories subject to registration, which locate temporarily at locations in Spokane County. Exemptions are provided in Section 5.08(D).

(2) Each time that a portable source will relocate to operate at a new location in Spokane County, the owner or operator must submit a PSP application and obtain an approved Permission to Operate issued by the Agency.

(3) The PSP application must be filed at least fifteen (15) calendar days prior to operating at a new location.

(4) 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)) 70A.15 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) Nonroad engines are reviewed under the following:

(a) Except as provided in Article V, Section 5.08(D), nonroad engines are required to submit a 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) Permission to Operate.

(1) Permission to Operate may be granted subject to conditions necessary to assure compliance with Chapter ((70.94)) 70A.15 RCW, the rules and regulations adopted thereunder, and the Agency's regulation(s). If any conditions listed in Article V, Section 5.05(C) are applicable to the proposal, a public comment period must be held according to Section 5.05(D).

(2) Permission to Operate may be granted for a limited time, but in no case remains effective for more than three hundred sixty-four (364) consecutive 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.

(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.

(4) Portable sources that meet the criteria in Article IV, Section 4.03 (A) (3) are exempt from registration.

(C) Permission to Operate Becomes Invalid if:

(1) Construction, installation, or operation does not begin within ninety (90) days of receipt of Permission to Operate, unless a longer time is 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.

(D) Portable Sources Exempt from 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.

2. Rock drilling operations.

3. Blasting operations.

4. Woodwaste chipping and grinding operations, except for operations that establish a permanent collection, storage, or processing facility at a site or sites for purpose of future processing, must obtain the Agency's approval of a NOC application, prior to establishment of the stationary source.

(b) Soil and groundwater remediation projects that emit pollutants below those presented Article IV, Sections 4.04 (A) (5) (a) through (d).

(c) All nonroad engines associated with portable rock crushing operations, portable asphalt production operations, and portable concrete production operations.

(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) Prevention of Significant Deterioration. Except for nonroad engines, a portable 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. 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 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 5.10 CHANGES TO AN ORDER OF APPROVAL OR PERMISSION TO OPERATE

(A) Constructed or Operated Differently than Approved Order. The Agency may revoke, revise, or suspend an Order of Approval, coverage under a GOA, or a Permission to Operate, if the Agency determines the stationary or portable source is not constructed, installed, or operated as described in the application and information request forms.

(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) The owner or operator may request, at any time, a change in conditions of an Order of Approval or Permission to Operate, and the Agency may approve such a request provided the Agency finds the criteria given in Section 5.07(A), as applicable, has been met.

(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 for a Permission to Operate, consistent with Section 5.08.

(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 fees, as established in SRCAA Regulation I, Article X, Section 10.07.

(D) Agency Initiated Changes in Conditions.

(1) Order of Approval and Permission to Operate revisions may be initiated by the Agency, without fees charged to the owner or operator, provided the owner or operator of the stationary source has complied with all applicable requirements of Chapter (~~(70.94)~~) 70A.15 RCW, the rules and regulations adopted thereunder, (~~and~~) the Agency's regulation(s), and the Agency determines the Order of Approval or Permission to Operate has:

(a) Typographical errors;

(b) Conditions listed therein that are technically infeasible;

(c) Additional or revised provisions that are needed to ensure compliance with Chapter (~~(70.94)~~) 70A.15 RCW, the rules and regulation adopted thereunder by the state or Agency, and federal regulations; or

(d) Inaccurate ownership information, including name, address, phone number, or other minor administrative inaccuracies.

(2) The Agency may not modify, delete, or add conditions to an existing Order of Approval or Permission to Operate under Article V, Section 5.10(D), 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) Public Notice of Changes in Conditions. Changes to conditions in an Order of Approval or Permission to Operate are subject to the public involvement provisions of Article V, Section 5.05.

AMENDATORY SECTION

SECTION 5.13 ORDER OF APPROVAL CONSTRUCTION TIME LIMITS

(A) Time Limit. An Order of Approval, issued under SRCAA Regulation I, Article V, Section 5.07 becomes invalid if:

(1) Construction is not commenced within eighteen (18) months after the receipt of the approval;

(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) Extension. The Agency may grant an extension beyond the eighteen (18) month period, as provided for in Article V, Section 5.13(A), upon a satisfactory showing that an extension is justified. The Agency may approve such a request provided that:

(1) No new requirements, such as NSPS (40 CFR Part 60), NESHAP (40 CFR Parts 61 and 63), or state and local regulations, have been adopted under Chapter (~~(70.94)~~) 70A.15 RCW or the FCCA (42 USC 7401 et seq.) which would change the Order of Approval, had it been issued at the time of the extension;

(2) No control equipment required per WAC 173-400-112, WAC 173-400-113, or WAC 173-400-114; or Article V, have been subsequently identified which would change the Order of Approval, had it been issued at the time of the extension;

(3) The information presented in the NOC application, associated documents, and the determinations by the 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)~~) 70A.15 RCW, the rules and regulations adopted thereunder, and the Agency's regulation(s).

(C) Phased Projects. Article V, Section 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 6.01 OUTDOOR BURNING

(A) Purpose. [WAC 173-425-010 (1-3)]

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 NAAQS for carbon monoxide (CO) and fine particulate matter (PM_{2.5}) as specified in 40 CFR Part 50.

(B) Applicability. [WAC 173-425-020]

(1) Article VI, Section 6.01 applies to all outdoor burning in Spokane County except:

(a) Silvicultural burning. [RCW ((~~70.94.6534~~)) 70A.15.5120(1) & Chapter 332-24 WAC] Silvicultural burning is related to the following activities for the protection of life or property and/or the public health, safety, and welfare:

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

(b) Agricultural Burning. [Article VI, Section 6.11]

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~~)) 70A.15.5090 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) Article VI, Section 6.01 specifically applies to:

(a) Firefighting Instruction Fires.

- 1. Aircraft Crash Rescue Fire Training, Section 6.01 (D) (1) (a)
- 2. Extinguisher Training, Section 6.01 (D) (1) (b)
- 3. Forest Fire Training, Section 6.01 (D) (1) (c)
- 4. Structural Fire Training, Section 6.01 (D) (1) (d)
- 5. Types of Other Firefighting Instruction Fires, Section 6.01 (D) (1) (e)

(b) Fire Hazard Abatement Fires, Section 6.01 (D) (2)

(c) Flag Retirement Ceremony Fires, Section 6.01 (D) (3)

(d) Indian Ceremonial Fires, Section 6.01 (D) (4)

(e) Land Clearing Fires, Section 6.01 (D) (5)

(f) Rare and Endangered Plant Regeneration Fires, Section 6.01 (D) (6)

(g) Recreational Fires, Section 6.01 (D) (7)

(h) Residential Fires, Section 6.01 (D) (8)

- (i) Social Event Fires, Section 6.01 (D) (9)
- (j) Storm or Flood Debris Fires, Section 6.01 (D) (10)
- (k) Tumbleweed Fires, Section 6.01 (D) (11)
- (l) Weed Abatement Fires, Section 6.01 (D) (12)
- (m) Other Outdoor Fires, Section 6.01 (D) (13)

(3) The provisions of Chapter 173-425 WAC (Outdoor Burning) are herein incorporated by reference.

(4) The provisions of 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. [WAC 173-425-030]

Words and phrases used in 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, mill(~~s~~) 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. [RCW (~~(70.94.6511)~~) 70A.15.5000]

(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. [RCW (~~(70.94.6530)~~) 70A.15.5100]

(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) Outdoor Burning Permitted.

(1) Firefighting Instruction Fires. [WAC 173-425-020 (2) (f), WAC 173-425-030(5), WAC 173-425-050, WAC 173-425-060 (1), (2) (f) & (3-4)]

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, Article VI, Section 6.01 (D) (1) serves as a general permit by the Agency.

(a) Aircraft Crash Rescue Fire Training. [RCW (~~(70.94.6546)~~) 70A.15.5180(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)]

1. Aircraft crash rescue training fires 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)) 70A.15.6010 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 the Agency prior to commencement of the training.

2. Unless specifically authorized in writing by the Agency, the prohibitions/requirements in Section 6.01(F) 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) 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

b. Aircraft crash rescue fire training fires must comply with the following:

- i. (F)(1) Prohibited Materials (except petroleum products)
- 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

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. [WAC 173-425-020 (2)(f), WAC 173-425-030(5), WAC 173-425-050, WAC 173-425-060 (1), (2)(f) & (3-4)] 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 the Agency, the prohibitions/requirements in Section 6.01(F) apply to extinguisher training fires as listed below:

- a. Extinguisher training 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
- b. Extinguisher training fires must comply with the following:
 - i. (F) (1) Prohibited Materials (except as provided for in Section 6.01 (D) (1) (b) 2.)
 - 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. 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 the Agency upon request.
- 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.
- 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. [RCW ((~~70.94.6546~~)) 70A.15.5180(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)]
- 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 the Agency, the prohibitions/requirements in Section 6.01(F) apply to forest fire training fires as listed below:
 - a. Forest fire training 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
 - b. Forest fire training fires must comply with the following:
 - i. (F) (1) Prohibited Materials
 - 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. 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)(e), Types of Firefighting Instruction Fires Not Listed Above.

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. [RCW 52.12.150(4), RCW ((70.94.6546)) 70A.15.5180(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)]

A fire protection agency may conduct structural fire training without a written permit provided all of the following requirements are met:

1. Unless specifically authorized in writing by the Agency, the prohibitions/requirements in Section 6.01(F) apply to structural fire training fires as listed below:

a. Structural fire training fires are exempt from the following:

i. (F)(1) Prohibited Materials (except as provided for in Section 6.01 (D)(1)(d)4.)

ii. (F)(2) Hauled Materials

iii. (F)(6) Containers

iv. (F)(8) Distances

v. (F)(10) Burn Hours

vi. (F)(11) Number of Piles

vii. (F)(12) Fuel Area

viii. (F)(13) Written Permits

ix. (F)(15) Areas Prohibited

b. Structural fire training fires must comply with the following:

i. (F)(3) Curtailments

ii. (F)(4) Nuisance

iii. (F)(5) Burning Detrimental to Others

iv. (F)(7) Extinguishing a Fire

v. (F)(9) Landowner Permission

vi. (F)(14) Property Access

vii. (F)(16) Other Requirements

2. The owner and fire protection agency(ies) must meet the requirements in SRCAA Regulation I, Article IX - Asbestos Control Standards and 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.

3. The fire protection agency(ies) conducting the fire training must have a fire training plan available to the Agency upon request, and the purpose of the structural fire must be to train firefighters.

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.

5. Structural fire training shall not be conducted if, in consideration of prevailing air patterns, emissions from the fire are likely to cause a nuisance.

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 if specifically directed by the Agency.

7. Structural fire training shall be performed in accordance with RCW 52.12.150.

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. [WAC 173-425-020 (2)(f), WAC 173-425-030(5), WAC 173-425-050, WAC 173-425-060 (1), (2)(f) & (3-4)]

A fire protection agency may conduct firefighting instruction fires not provided for in Article VI, Section 6.01 (D)(1)(a-d) (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:

1. Unless specifically authorized in writing by the Agency, the prohibitions/requirements in Section 6.01(F) apply to other firefighting instruction fires as listed below:

a. Other firefighting training 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

b. Other firefighting training fires must comply with the following:

- i. (F)(1) Prohibited Materials (except as provided for in Section 6.01 (D)(1)(e)3.)
- 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 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) 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) Fire Hazard Abatement Fires.

(a) A permit from a permitting agency other than SRCAA is required pursuant to Article VI, Section 6.01(E) for fire hazard abatement fires. All fire hazard abatement fires require a written permit unless an alternate permitting method is specified in a written agree-

ment (e.g., Memorandum of Understanding) between SRCAA and the permitting agency.

(b) Unless specifically authorized in writing by the permitting agency and pursuant to a written agreement between SRCAA and the permitting agency, the prohibitions/requirements in Section 6.01(F) 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 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) Flag Retirement Ceremony Fires. [RCW ((~~70.94.6522~~))
70A.15.5060, 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 USC ((~~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) Article VI, Section 6.01 (D)(3) serves as a general permit by the Agency.

(b) The prohibitions/requirements in Section 6.01(F) apply to flag retirement ceremony fires as listed below:

1. Unless specifically authorized in writing by 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 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) 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) Burning flags made of synthetic materials (e.g., nylon) is prohibited.

(4) Indian Ceremonial Fires. [~~RCW ((70.94.6550))~~ 70A.15.5200, 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) Article VI, Section 6.01 (D)(4) serves as a general permit by the Agency.

(b) Unless specifically authorized in writing by the Agency, the prohibitions/requirements in Section 6.01(F) apply to Indian ceremonial fires as listed below:

1. Indian ceremonial fires are exempt from the following:

- i. (F)(2) Hauled Materials
- ii (F)(6)(b) Containers
- iii. (F)(10) Burn Hours
- iv. (F)(13) Written Permits
- v. (F)(15) Areas Prohibited

2. Indian ceremonial fires must comply with the following:

- i. (F)(1) Prohibited Materials
- ii. (F)(3) Curtailments
- iii. (F)(4) Nuisance
- iv. (F)(5) Burning Detrimental to Others
- v. (F)(6)(a) Containers (burn barrels)
- vi. (F)(7) Extinguishing a Fire
- vii. (F)(8) Distances
- viii. (F)(9) Landowner Permission
- ix. (F)(11) Number of Piles
- x. (F)(12) Fuel Area
- xi. (F)(14) Property Access
- xii. (F)(16) Other Requirements

(5) Land Clearing Fires. [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)]

(a) All land clearing burning, except for silvicultural-to-agricultural and residential land clearing burning, is prohibited effective January 13, 2002.

(b) Silvicultural-to-agricultural burning is prohibited after April 30, 2009.

(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. [~~RCW ((70.94.6526))~~ 70A.15.5080(2)]. 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) Rare and Endangered Plant Regeneration Fires. [RCW ((70.94.6524)) 70A.15.5070, RCW ((70.94.6534)) 70A.15.5120(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)]

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) Pursuant to RCW ((70.94.6534)) 70A.15.5120(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) Unless otherwise allowed or required by the fire protection agency, the prohibitions/requirements in Article VI, Section 6.01(F) apply to rare and endangered plant regeneration fires as listed below:

1. Rare and endangered plant regeneration fires are exempt from the following:

- i. (F)(8) Distances
- ii. (F)(10) Burn Hours
- iii. (F)(11) Number of Piles
- iv. (F)(12) Fuel Area
- v. (F)(13) Written Permits
- vi. (F)(15) Areas Prohibited

2. Rare and endangered plant regeneration fires 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)(14) Property Access
- x. (F)(16) Other Requirements

(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), the Agency may also perform complaint response and enforcement activities.

(7) 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)]

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% moisture content), bare, wood from trees. Commercially manufactured fire logs are acceptable fuels unless determined otherwise by 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) This Article VI, Section 6.01 (D) (7) serves as a general permit by the Agency.

(b) The prohibitions/requirements in Section 6.01(F) apply to recreational fires as listed below:

1. Recreational fires are exempt from the following:

- i. (F) (2) Hauled Materials
- ii. (F) (6) (b) Containers
- iii. (F) (10) Burn Hours
- iv. (F) (13) Written Permits
- v. (F) (15) Areas Prohibited

2. Recreational fires must comply with the following:

- i. (F) (1) Prohibited Materials
- ii. (F) (3) Curtailments
- iii. (F) (4) Nuisance
- iv. (F) (5) Burning Detrimental to Others
- v. (F) (6) (a) Containers (burn barrels)
- vi. (F) (7) Extinguishing a Fire
- vii. (F) (8) Distances
- viii. (F) (9) Landowner Permission
- ix. (F) (11) Number of Piles
- x. (F) (12) Fuel Area
- xi. (F) (14) Property Access
- xii. (F) (16) Other Requirements

(8) Residential Fires (also referred to as Residential Burning or Residential Yard and Garden Debris Burning). [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). 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) apply to residential fires as listed below:

1. No exemptions apply to residential fires.

2. Residential fires 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)(8) Distances
- ix. (F)(9) Landowner Permission
- x. (F)(10) Burn Hours
- xi. (F)(11) Number of Piles
- xii. (F)(12) Fuel Area (except as provided in Section 6.01

(D)(8)(c))

- xiii. (F)(13) Written Permits
- xiv. (F)(14) Property Access
- xv. (F)(15) Areas Prohibited
- xvi. (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 circumstances 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), residential burning is prohibited within any area where a permitting agency does not administer a residential burning program.

(9) Social Event Fires. [WAC 173-425-020 (2)(i), WAC 173-425-030(21), WAC 173-425-050, WAC 173-425-060 (1), (2)(i) & (4)]

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 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% 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 the Agency is required pursuant to Article VI, Section 6.01(E) and, unless otherwise approved by 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 the Agency, the prohibitions/requirements in Section 6.01(F) apply as listed below:

1. Social event fires may be exempt from the following at the Agency's discretion:

- i. (F)(2) Hauled Materials
- ii. (F)(6)(b) Containers
- iii. (F)(8) Distances

- iv. (F)(10) Burn Hours
- v. (F)(11) Number of Piles
- vi. (F)(12) Fuel Area
- vii. (F)(15) Areas Prohibited
- 2. Social event fires must comply with the following:
 - i. (F)(1) Prohibited Materials
 - ii. (F)(3) Curtailments
 - iii. (F)(4) Nuisance
 - iv. (F)(5) Burning Detrimental to Others
 - v. (F)(6)(a) Containers (burn barrels)
 - vi. (F)(7) Extinguishing a Fire
 - vii. (F)(9) Landowner Permission
 - viii. (F)(13) Written Permits
 - ix. (F)(14) Property Access
 - x. (F)(16) Other Requirements

(10) Storm or Flood Debris Fires. [RCW ((~~70.94.6514~~)) 70A.15.5020(2), 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 the Agency is required pursuant to Article VI, Section 6.01(E) and, unless otherwise approved by the Agency, an application for a storm or flood debris fire must be submitted at least ten (10) working days prior to the first proposed burn date.

(b) Unless specifically authorized in writing by the Agency, the prohibitions/requirements in Section 6.01(F) apply as listed below:

1. Storm or flood debris fires may be exempt from the following at the Agency's discretion:

- i. (F)(12) Fuel Area
- 2. Storm or flood debris fires 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)(8) Distances
 - ix. (F)(9) Landowner Permission
 - x. (F)(10) Burn Hours
 - xi. (F)(11) Number of Piles
 - xii. (F)(13) Written Permits
 - xiii. (F)(14) Property Access
 - xiv. (F)(15) Areas Prohibited
 - xv. (F)(16) Other Requirements

(11) Tumbleweed Fires. [RCW ((~~70.94.6554~~)) 70A.15.5220]

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 and Chapter 173-430 WAC.

(12) Weed Abatement Fires. [~~RCW ((70.94.6552))~~ 70A.15.5210, 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).

(b) The prohibitions/requirements in Section 6.01(F) 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) Number of Piles (refer to Section 6.01(D) (11) (c), below)

ii (F) (12) Fuel Area (refer to Section 6.01 (D) (11) (c), below)

2. Weed abatement fires 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) (8) Distances

ix. (F) (9) Landowner Permission

x. (F) (10) Burn Hours

xi. (F) (13) Written Permits

xii. (F) (14) Property Access

xiii. (F) (15) Areas Prohibited

xiv. (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))~~ 70A.15.5060, 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 the Agency to outdoor fires necessary to protect public health and safety.

(b) Other outdoor burning will generally not be allowed unless 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 the Agency waives the advance application period. A written permit from the Agency is required pursuant to Article VI, Section 6.01(E) unless 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.

(E) Application For and Permitting of Written Outdoor Burning Permits. Outdoor burning requiring a written permit pursuant to Article VI, Section 6.01(D) is subject to all of the following requirements:

(1) Permit Application.

(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) 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) 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) 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) A separate application must be completed and submitted to the appropriate permitting agency for each outdoor burn permit requested.

(e) A permit for outdoor burning shall not be granted on the basis of a previous permit history.

(2) Denial or Revocation of a Permit.

(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 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) 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) 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)(4)). 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) The permitting agency may deny a permit for other reasons and shall provide the reason(s) in the applicant's permit denial.

(3) Permit Conditions. Permits may include requirements and restrictions beyond those specified in SRCAA Regulation I.

(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) or in the permit. In no circumstance will a permit be valid for more than one calendar year.

(F) Prohibitions/Requirements. [WAC 173-425-050 & WAC 173-425-060(4)]

All of the following apply to all outdoor burning unless specified otherwise in Article VI, Section 6.01 or pursuant to a written permit:

(1) Prohibited Materials. [WAC 173-425-050(1)]

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~~) 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)~~) 70A.15.5010(1) and Attorney General Opinion 1993 #17).

(2) Hauled Materials. [WAC 173-425-050(2)]

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) Curtailments. [RCW (~~(70.94.6512)~~) 70A.15.5010, RCW (~~(70.94.6516)~~) 70A.15.5030, WAC 173-425-030(2), WAC 173-425-030(7), WAC 173-425-050(3), WAC 173-425-060(4) & WAC 173-433-140]

(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) Outdoor burning is prohibited in specified geographical areas when one or more of the following occur:

1. The Washington State Department of Ecology (Ecology) has declared an air pollution episode.

2. Ecology or SRCOA has declared impaired air quality.

3. A fire protection authority with jurisdiction has declared a fire danger burn ban, unless that authority grants an exception.

(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:

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 episode, 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. [RCW (~~(70.94.030)~~) 70A.15.1030(2) & WAC 173-425-050(4)]

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, 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, the Agency may take enforcement action under 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 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. [RCW ((70.94.040))
70A.15.1070, RCW ((70.94.6528)) 70A.15.5090(1), RCW ((70.94.6516))
70A.15.5030, and WAC 173-425-050(4)]

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. [WAC 173-425-050(5)]

(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. [WAC 173-425-050 (6) (a) & WAC 173-425-060(4)]

(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. [WAC 173-425-050 (6) (b) & WAC 173-425-060(4)]

(a) All fires subject to Article VI, Section 6.01 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. [WAC 173-425-050 (6) (c)]

Permission from a landowner, or owner's designated representative, must be obtained before outdoor burning on landowner's property.

(10) Burn Hours. [WAC 173-425-060(4)]

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 after ((~~of~~)) sunset will constitute prima facie evidence of unlawful outdoor burning.

(11) Number of Piles. [WAC 173-425-060 (5) (c) (x)]

Only one (1) pile at a time may be burned on contiguous parcels of property under same ownership. The pile must be extinguished before lighting another.

(12) Fuel Area. [WAC 173-425-060(4)]

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. [RCW ((70.94.200)) 70A.15.2500 & SRCAA Regulation I, Article II]

The Control Officer, or 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 Article II and RCW ((70.94.200)) 70A.15.2500. 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 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. [WAC 173-425-040]

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)) 70A.15 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, new permit approval from 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 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 6.04 EMISSION OF AIR CONTAMINANT: DETRIMENT TO PERSON OR PROPERTY

(A) Definitions. All definitions in SRCAA Regulation I, Article I, Section 1.04 apply to Article VI, Section 6.04, unless otherwise defined herein.

(B) Applicability. The Agency 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 addition to WAC 173-400-040, the provisions of Section 6.04 apply. The provisions of RCW (~~(70.94.640)~~) 70A.15.4530 are herein incorporated by reference.

(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) Odors. With respect to odor, the Agency may take enforcement action, pursuant to Chapter (~~(70.94)~~) 70A.15 RCW, under this section if the Control Officer or authorized representative has documented all of the following:

(1) The detection by the Control Officer or 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) Odor Violation. With respect to odor, the Agency will determine whether or not a violation of Article VI, Section 6.04(C) has occurred based on its review of the information documented under Section 6.04(D), as well as any other relevant information obtained during the investigation.

(F) Enforcement Action. When determining whether to take formal enforcement action authorized in 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 op-

erating practices are appropriate, the Agency may decline to pursue formal enforcement action.

(G) Documentation. The Agency will document all the criteria used in making its determination in 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)) 70A.15.2510, 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) Cause of Action or Legal Remedy. Nothing in 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.

AMENDATORY SECTION

SECTION 6.11 AGRICULTURAL BURNING

(A) Adoption by Reference. In addition to SRCAA Regulation I, Article VI, Section 6.11, the Agency adopts by reference Chapter 173-430 WAC. The more stringent requirement in Chapter 173-430 or Section 6.11 supersedes the lesser.

(B) Purpose. The primary purpose of Section 6.11 is to establish specific requirements for agricultural burning in Spokane County, consistent with Chapter 173-430 WAC.

(C) Applicability. Section 6.11 applies to agricultural burning in all areas of Spokane County unless specifically exempted. Section 6.11 does not apply to Silvicultural Burning (see Chapter 332-24 WAC) or to Outdoor Burning (see Chapter 173-425 WAC).

(D) Statement of Authority. The Spokane Regional Clean Air Agency is empowered, pursuant to Chapter ((70.94)) 70A.15 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 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.

(E) Definitions. Unless a different meaning is clearly required by context, words and phrases used in 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 prac-

tice by the agricultural burning practices and research task force established in RCW (~~(70.94.6528)~~) 70A.15.5090 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 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 (PM_{10}) 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 24-hour average, by a method which has been determined by Ecology or the Agency to have a reliable correlation to the federal reference method, 40 CFR 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 Agency to have a reliable correlation to the federal reference method, 40 CFR 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 Agency to have a reliable correlation to the federal reference method, 40 CFR Part 50 Appendix L, or equivalent.

(d) Air contaminant levels reach or exceed other limits, established by Ecology pursuant to RCW (~~(70.94.331)~~) 70A.15.3000.

(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 (Agency), or one or more of the following entities, whenever the Agency has delegated administration of the permitting program, pursuant to RCW (~~(70.94.6530)~~) 70A.15.5100, 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.

(F) Requirements. No person shall practice or permit the practice of Agricultural Burning, other than incidental agricultural burning pursuant to RCW (~~(70.94.6524)~~) 70A.15.5070(7), unless the applicant demonstrates to the satisfaction of the 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.

(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 Agency for a defined geographical area.

(4) Where burning causes a nuisance or when the 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 (~~(70.94.6524)~~) 70A.15.5070(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 Agency or the permitting authority.

(H) General Conditions. Considering population density and local conditions affecting air quality, the 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 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 having jurisdiction shall be notified by the responsible person, prior to igniting a fire.

(6) If it becomes apparent at any time to the 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 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.

(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 [Section 6.11 (K) (10)].

(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 Consolidated Fee Schedule, established by resolution of the permitting authority. When the permitting authority is ((the)) SRCAA (~~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.

(J) Responsibilities of Farmers. In order to make the required showing, referenced in Section 6.11(F), 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 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 (~~(70.94.6528)~~) 70A.15.5090.

(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.

(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).

(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) in order to achieve the following:

(a) Minimizing air pollution and emissions of air pollutants, and

(b) 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 (~~(70.94.6528)~~) 70A.15.5090.

(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.

(L) Compliance. The responsible person is expected to comply with all applicable laws and regulations. Compliance with Section 6.11 does not ensure that agricultural burning complies with other applicable laws and regulations implemented by any other authority or entity.

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 8.01 PURPOSE

~~((This article))~~ Article VIII establishes emission standards, certification standards and procedures, curtailment rules, and fuel restrictions for solid fuel burning devices in order to attain the National Ambient Air Quality Standards for fine particulate matter (PM_{2.5}) and to further the policy of the Agency as stated in SRCAA Regulation I, Article I, Section 1.01 ~~((of this Regulation))~~.

AMENDATORY SECTION

SECTION 8.02 APPLICABILITY

The provisions of ~~((this article))~~ Article VIII apply to solid fuel burning devices in all areas of Spokane County.

AMENDATORY SECTION

SECTION 8.03 DEFINITIONS

(A) Unless a different meaning is clearly required by context, words and phrases used in ~~((this article))~~ Article VIII shall have the following meaning:

~~((A-))~~ (1) Agency means the Spokane Regional Clean Air Agency.

~~((B-))~~ (2) Coal stove means an enclosed, coal burning appliance capable of and intended for residential space heating, domestic water heating or indoor cooking, which has all the following characteristics:

~~((1-))~~ (a) An opening for loading coal which is located near the top or side of the appliance; and

~~((2-))~~ (b) An opening for emptying ash which is located near the bottom or the side of the appliance; and

~~((3-))~~ (c) A system which admits air primarily up and through the fuel bed; and

~~((4-))~~ (d) A grate or other similar device for shaking or disturbing the fuel bed; and

~~((5-))~~ (e) Listing by a nationally recognized safety testing laboratory for use of coal only, except for coal ignition purposes; and

~~((6-))~~ (f) Not configured or capable of burning cordwood.

((C-)) (3) Commercial establishment is defined to include an establishment possessing a valid business license issued by a governmental entity.

((D-)) (4) Cook stove means an appliance designed with the primary function of cooking food and containing an integrally built in oven with a volume of one (1) cubic foot or greater where the cooking surface measured in square inches or square feet is one and one-half times greater than the firebox measured in cubic inches or cubic feet (e.g. a firebox of two (2) cubic feet would require a cooking surface of at least three (3) square feet). It must have an internal temperature indicator and oven rack, around which the fire is vented, as well as a shaker grate ash pan and an ash cleanout below the firebox. Any device with a fan or heat channels used to dissipate heat into the room shall not be considered a cook stove. A portion of at least four sides of the oven must be exposed to the flame path during the oven heating cycle, while a flue gas bypass will be permitted for temperature control. Devices designed or advertised as room heaters that also bake or cook do not qualify as cook stoves.

((E-)) (5) Ecology means the Washington State Department of Ecology.

(6) Emergency Power Outage means any natural or human-caused event beyond the control of a person that leaves the person's residence or commercial establishment temporarily without an adequate source of heat other than the solid fuel burning device; or a natural or human-caused event for which the governor declares an emergency in an area under RCW 43.06.010(12). Emergency power outage ends once power is restored by the utility provider.

((F-)) (7) EPA means the United States Environmental Protection Agency or the Administrator of the United States Environmental Protection Agency or his/her designated representative.

((G-)) (8) EPA Certified means a woodstove certified and labeled by EPA under ((M))40 CFR Part 60, Subpart AAA - Standards of Performance for New Residential Wood Heaters((M))

((H-)) (9) Fireplace means a permanently installed masonry fireplace; or a factory-built solid fuel burning device designed to be used with an air-to-fuel ratio greater than or equal to thirty-five to one and without features to control the inlet air-to-fuel ratio other than doors or windows such as may be incorporated into the fireplace design for reasons of safety, building code requirements, or aesthetics.

((I-)) (10) National Ambient Air Quality Standards (NAAQS; 40 CFR Part 50 - National Primary and Secondary Ambient Air Quality Standards) means outdoor air quality standards established by the United States Environmental Protection Agency under authority of the federal Clean Air Act. EPA set standards for six principal air pollutants, called "criteria" pollutants, under the NAAQS. The criteria pollutants are carbon monoxide, sulfur dioxide, nitrogen dioxide, lead, ozone and particulate matter (PM_{2.5} and PM₁₀).

((J-)) (11) Non-affected pellet stove means that a pellet stove has an air-to-fuel ratio equal to or greater than 35:1 when tested by an accredited laboratory in accordance with methods and procedures specified by the EPA in ((M))40 ((C.F.R.)) CFR Part 60, Appendix A, Method 28A Measurement of Air to Fuel Ratio and Minimum Achievable Burn Rates for Wood-Fired Appliances (~~((REFERENCE METHOD 28A - MEASUREMENT OF AIR TO FUEL RATIO AND MINIMUM ACHIEVABLE BURN RATES FOR WOOD-FIRED APPLIANCES))~~) as amended through July 1, 1990.

((K-)) (12) Nonattainment Area means a clearly delineated geographic area which has been designated by the Environmental Protection Agency because it does not meet, or it affects ambient air quality in a nearby area that does not meet, a national ambient air quality standard or standards for one or more of the criteria pollutants defined in 40 CFR Part 50, National Primary and Secondary Ambient Air Quality Standards.

((L-)) (13) Oregon Certified means a woodstove manufactured prior to 1989 which meets the "Oregon Department of Environmental Quality Phase 2" emissions standards contained in Subsections (2) and (3) of Section 340-21-115, and certified in accordance with ((M)) Oregon Administrative Rules, Chapter 340, Division 21 - Woodstove Certification((N)) dated November 1984.

((M-)) (14) PM_{2.5} or Fine Particulate Matter means particulate matter with a nominal aerodynamic diameter of two and one half (2.5) micrometers and smaller measured as an ambient mass concentration in units of micrograms per cubic meter of air. (~~Also called fine particulate matter.~~)

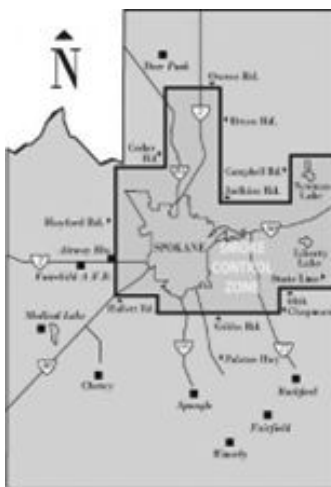
((N-)) (15) PM₁₀ means particulate matter with a nominal aerodynamic diameter of ten (10) micrometers and smaller measured as an ambient mass concentration in units of micrograms per cubic meter of air.

((O-)) (16) Seasoned Wood means wood of any species that has been sufficiently dried so as to contain twenty percent or less moisture by weight.

((P-)) (17) Solid Fuel Burning Device means a device that is designed to burn wood, coal, or any other nongaseous or nonliquid fuels, and includes woodstoves, coal stoves, cook stoves, pellet stoves, and fireplaces, or any similar device burning any solid fuel. It includes devices used for aesthetic or space-heating purposes in a private residence or commercial establishment, which have a heat input less than one million British thermal units per hour.

((Q-)) (18) Smoke Control Zone means the Spokane/Spokane Valley Metropolitan area and surrounding geographic areas affected by combustion smoke from solid fuel burning devices, after consideration of the contribution of devices that are not Washington certified devices, population density and urbanization, and effect on the public health (RCW ((70.94.477)) 70A.15.3600 (2) (a), (b) and (c)), is defined as follows:

Sections 1 through 6, Township 24 N, Range 42 E; Townships 25 and 26 N, Range 42 E; Sections 1 through 24, Township 24 N, Range 43 N; Townships 25, 26 and 27 N, Range 43 E; Sections 19 through 36, Township 28 N, Range 43 E; Sections 1 through 24, Township 24 N, Range 44 E; Township 25 N, Range 44 E; Sections 19 through 36, Township 26 N, Range 44 E; Township 25 N, Range 45 E; Sections 1 through 4, 9 through 16 and 19 through 36, Township 26 N, Range 45 E; Sections 33 through 36, Township 27 N, Range 45 E; Sections 6, 7, 18, 19, 30, and 31, Township 25 N, Range 46 E; Sections 6, 7, 18, 19, 30 and 31, Township 26 N, Range 46 E; Section 31, Township 27 N, Range 46 E. See graphic below:



((R-)) (19) Treated Wood means wood of any species that has been chemically impregnated, painted, or similarly modified to improve resistance to insects, fungus or weathering.

((S-)) (20) Washington Certified Device means a solid fuel burning device, other than a fireplace, which has been determined by Ecology to meet emission performance standards, pursuant to RCW ((70.94.457)) 70A.15.3530 and WAC 173-433-100(3).

((T-)) (21) Woodstove means an enclosed solid fuel burning device capable of and intended for residential space heating and domestic water heating that meets the following criteria contained in ((U))40 ((C.F.R.)) CFR Part 60, Subpart AAA - Standards of Performance for New Residential Wood Heaters((U)) as amended through July 1, 1990:

((1-)) (a) An air-to-fuel ratio in the combustion chamber averaging less than 35:1 as determined by EPA ((Reference)) Method 28A Measurement of Air to Fuel Ratio and Minimum Achievable Burn Rates for Wood-Fired Appliances; and

((2-)) (b) A useable firebox volume of less than twenty (20) cubic feet; and

((3-)) (c) A minimum burn rate less than 5 kg/hr as determined by EPA ((Reference)) Method 28 Certification and Auditing of Wood Heaters; and

((4-)) (d) A maximum weight of 800 kg, excluding fixtures and devices that are normally sold separately, such as flue pipe, chimney, and masonry components not integral to the appliance.

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

AMENDATORY SECTION

SECTION 8.04 EMISSION PERFORMANCE STANDARDS

The Agency adopts Chapter 173-433 WAC Solid Fuel Burning Devices by reference and ((Title)) 40 CFR((T)) Part 60, Subpart AAA ((of the Code of Federal Regulations)) ((U)) Standards of Performance for New Residential Wood Heaters((U)) by reference.

AMENDATORY SECTION

SECTION 8.05 OPACITY STANDARDS

~~((A.))~~ (A) Opacity Limit. A person shall not cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of ~~((twenty percent))~~ 20% opacity for six (6) consecutive minutes in any one (1)~~((-))~~ hour period.

~~((B.))~~ (B) Test Method and Procedures. EPA ~~((reference))~~ Reference ~~((method))~~ Method 9 - Visual Determination of the Opacity of Emissions from Stationary Sources - shall be used to determine compliance with Section 8.05~~((A))~~ (A).

~~((C.))~~ (C) Enforcement. Smoke visible from a chimney, flue or exhaust duct in excess of the opacity limit shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that the smoke was not caused by an applicable solid fuel burning device. The provisions of this requirement shall not apply during the starting of a new fire for a period not to exceed twenty (20) minutes in any four (4)~~((-))~~ hour period.

AMENDATORY SECTION

SECTION 8.06 PROHIBITED FUEL TYPES

(A) Prohibited Materials. A person shall not cause or allow any of the following materials to be burned in a solid fuel burning device:

- ~~((A.))~~ (1) Garbage;
- ~~((B.))~~ (2) Treated wood (defined in Section 8.03);
- ~~((C.))~~ (3) Plastic products;
- ~~((D.))~~ (4) Rubber products;
- ~~((E.))~~ (5) Animals;
- ~~((F.))~~ (6) Asphaltic products;
- ~~((G.))~~ (7) Waste petroleum products;
- ~~((H.))~~ (8) Paints;
- ~~((I.))~~ (9) Any substance, other than properly seasoned fuel wood, or coal with sulfur content less than 1.0% by weight burned in a coal stove, which normally emits dense smoke or obnoxious odors; or
- ~~((J.))~~ (10) Paper, other than an amount of non-colored paper necessary to start a fire.

AMENDATORY SECTION

SECTION 8.07 CURTAILMENT (BURN BAN)

~~((A.))~~ (A) Curtailment. Except as provided in Section 8.08, no person shall operate a solid fuel burning device within a defined geographical area under any of the following conditions:

~~((1.))~~ (1) Air Pollution Episode. Whenever Ecology has declared curtailment under an alert, warning, or emergency air pollution episode for the geographical area pursuant to Chapter 173-435 WAC and RCW ~~((70.94.715))~~ 70A.15.6010.

~~((2.))~~ (2) Stage 1 Burn Ban. Whenever the Agency has declared curtailment under a first stage of impaired air quality for the Smoke Control Zone or other geographical area unless the solid fuel burning device is one of the following: a ~~((A.))~~ nonaffected pellet stove; or ~~((b. A))~~ a Washington Certified Device; or ~~((e. An))~~ an EPA Certified Woodstove; or ~~((d. An))~~ an Oregon Certified Woodstove.

(a) In Spokane County as allowed by RCW ~~((70.94.473))~~ 70A.15.3580
 (1)(b)(i) a first stage of impaired air quality is reached and curtailment may be declared when the Agency determines that particulate matter with a nominal aerodynamic diameter of two and one half (2.5)

micrometers and smaller (PM_{2.5}), measured as an ambient mass concentration at any location within Spokane County using a method which has been determined by Ecology or the Agency to have a reliable correlation to the federal reference method, CFR Title 40 Part 50 Appendix L, and updated hourly as a twenty-four (24) hour running average, is likely to exceed thirty-five (35) micrograms per cubic meter of air within forty-eight (48) hours based on forecasted meteorological conditions.

~~(3-)~~ (3) Stage 2 Burn Ban. Whenever the Agency has declared curtailment under a second stage of impaired air quality for the Smoke Control Zone or other geographical area. In Spokane County as allowed by RCW (~~(70.94.473)~~) 70A.15.3580 (1)(c)(ii) a second stage of impaired air quality is reached and curtailment may be declared whenever all of the following criteria are met:

~~(a-)~~ (a) Issuing a Stage 2 Burn Ban Following a Stage 1 Burn Ban.

~~(1-)~~ 1. A first stage of impaired air quality has been in force for a period of twenty-four (24) hours or longer and, in the Agency's judgment, has not reduced the PM_{2.5} ambient mass concentration, measured as a twenty-four (24) hour running average, sufficiently to prevent it from exceeding thirty-five (35) micrograms per cubic meter of air at any location inside Spokane County within twenty-four (24) hours; and

~~(2-)~~ 2. A twenty-four (24) hour running average PM_{2.5} ambient mass concentration equal to or greater than twenty-five (25) micrograms per cubic meter of air is measured at any location inside Spokane County using a method which has been determined by Ecology or the Agency to have a reliable correlation to the federal reference method, 40 CFR (~~(Title)~~) 40 Part 50 Appendix L, or equivalent; and

~~(3-)~~ 3. The Agency does not expect meteorological conditions to allow ambient mass concentrations of PM_{2.5} measured as a twenty-four (24) hour running average to decline below twenty-five (25) micrograms per cubic meter of air for a period of twenty-four (24) hours or more from the time that it is measured at that concentration.

~~(b-)~~ (b) Issuing a Stage 2 Burn Ban Without First Declaring a Stage 1 Burn Ban.

1. A second stage burn ban may be issued without an existing first stage burn ban as allowed by RCW (~~(70.94.473)~~) 70A.15.3580 (1)(c)(ii) whenever all of the following criteria are met:

~~(1-)~~ a. The ambient mass concentration of PM_{2.5} at any location inside Spokane County has reached or exceeded twenty-five (25) micrograms per cubic meter, measured as a running twenty-four (24) hour average using a method which has been determined, by Ecology or the Agency, to have a reliable correlation to the federal reference method, (~~(CFR Title)~~) 40 CFR Part 50 Appendix L, or equivalent; and

~~(2-)~~ b. Meteorological conditions have caused PM_{2.5} ambient mass concentrations to rise rapidly; and

~~(3-)~~ c. The Agency predicts that meteorological conditions will cause PM_{2.5} ambient mass concentrations measured as a twenty-four (24) hour running average to exceed thirty-five (35) micrograms per cubic meter of air within twenty-four (24) hours; and

~~(4-)~~ d. Meteorological conditions are highly likely to prevent smoke from dispersing sufficiently to allow PM_{2.5} ambient mass concentrations to decline below twenty-five (25) micrograms per cubic meter of air within twenty-four (24) hours.

2. Issuance of a second stage burn ban without an existing first stage burn ban shall require the Agency to comply with RCW ((70.94.473)) 70A.15.3580(3).

((4.)) (4) The following matrix graphically illustrates the applicability of SRCAA Regulation I, Article VIII, Sections 8.07 ((A.1-3 of this Regulation)) (A) (1) - (3).

Burn Condition Type of Device	Impaired Air Quality		Air Pollution Episode
	First Stage Burn Ban	Second Stage Burn Ban	
EPA Certified Woodstove	Allowed	Prohibited	Prohibited
Oregon Certified Woodstove	Allowed	Prohibited	Prohibited
Pellet Stove (nonaffected)	Allowed	Prohibited	Prohibited
Washington Certified Device	Allowed	Prohibited	Prohibited
All Other Devices	Prohibited	Prohibited	Prohibited

((5.)) (5) After July 1, 1995, if the limitation in RCW ((70.94.477)) 70A.15.3600(2) is exercised, following the procedure in Section 8.09 (Procedure to Geographically Limit Solid Fuel Burning Devices), and the solid fuel burning device is not one of the following:

- ((a.)) (a) A nonaffected pellet stove; or
- ((b.)) (b) Washington Certified Device; or
- ((c.)) (c) EPA Certified Woodstove; or
- ((d.)) (d) Oregon Certified Woodstove.

((B.)) (B) Consideration. ((In consideration of declaring)) When determining whether to declare a curtailment under a stage of impaired air quality, the Agency shall consider the anticipated beneficial effect on ambient concentrations of PM_{2.5}, taking into account meteorological factors, the contribution of emission sources other than solid fuel burning devices, and any other factors deemed to affect the PM_{2.5} mass concentration.

((C.)) (C) Extinguish Device. Any person responsible for a solid fuel burning device which is subject to curtailment and is already in operation at the time curtailment is declared under an episode or a stage of impaired air quality shall extinguish that device by withholding new solid fuel for the duration of the episode or impaired air quality. Smoke visible from a chimney, flue or exhaust duct after a time period of three (3) hours has elapsed from the time of declaration of curtailment under an episode or a stage of impaired air quality shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that smoke was not caused by an applicable solid fuel burning device.

((D.)) (D) Enforcement. The Agency, Ecology, Spokane Regional ((County)) Health District, fire departments, fire districts, Spokane County Sheriff's Department, or local police having jurisdiction in the area may enforce compliance with solid fuel burning device curtailment after a time period of three (3) hours has elapsed from the time of declaration of curtailment under an episode or a stage of impaired air quality.

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 8.08 EXEMPTIONS

~~((A.))~~ (A) Categories. The provisions of Section 8.07 shall not apply to any person who possesses a valid written exemption for his/her residence, issued by the Agency. The Agency may issue written exemptions for residences if any one of the following is demonstrated to the satisfaction of the Agency:

~~((1.))~~ (1) Low Income. An economic need to burn solid fuel for residential space heating purposes by qualifying through Spokane Neighborhood Action Partners (SNAP) for energy assistance according to economic guidelines established by the U.S. Office of Management and Budget under the low income energy assistance program (L.I.E.A.P.).

~~((2.))~~ (2) No Adequate Source of Heat. An exemption may be issued if all of the following apply:

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

~~((b.))~~ (b) The residence was originally constructed with a solid fuel burning device as a source of heat; and

~~((e.))~~ (c) A person in a residence does not have an adequate source of heat without using a solid fuel burning device (RCW ~~((70.94.477))~~ 70A.15.3600 (6) (a)).

~~((1))~~ 1. Adequate source of heat means the ability to maintain ~~((seventy degrees Fahrenheit))~~ 70°F at a point three (3) feet above the floor in all normally inhabited areas of a dwelling (WAC 173-433-030(1)); and

~~((2))~~ 2. If any part of the heating system has been disconnected/removed, damaged, or is otherwise nonfunctional, the Agency shall base the assessment of the adequacy of design for providing an adequate source of heat in Section 8.08 ~~((A.2.e.1))~~ (A) (2) (c) 1., above, on the system's capability prior to the disconnection/removal, damage, improper maintenance, malfunction, or occurrence that rendered the system nonfunctional.

(d) A person's income level is not a determining factor in the approval or denial of an exemption under this provision. Exemptions based on income level are addressed in Section 8.08 ~~((A.1))~~ (A) (1).

~~((3.))~~ (3) Primary Heating Source Temporarily Inoperable. That his/her heating system, other than a solid fuel burning device, is temporarily inoperable for reasons other than his/her own actions. When applying for this exemption, the applicant must submit a compliance schedule for bringing his/her heating system, other than a solid fuel burning device, back into operation to be used as his/her primary heating source. Unless otherwise approved by ~~((SRCAA))~~ the Agency, exemptions will be limited to thirty (30) calendar days. A person's income level is not a determining factor in the approval or denial of an exemption under this provision.

~~((4. State of Emergency If a state of emergency is declared by an authorized local, state, or federal government official due to a storm, flooding, or other disaster, which is in effect during a burn ban declared pursuant to Section 8.07 of this Regulation, the Control Officer may temporarily issue a State of Emergency exemption. The State of Emergency exemption shall serve as a general exemption from burn ban provisions in Section 8.07. The temporary approval shall reference the applicable state of emergency, effective date, expiration date, and limitations, if any (e.g. specific geographic areas affected).))~~

(4) Emergency Power Outage. To prevent loss of life, health, or business, Section 8.07 does not prevent burning wood in a solid fuel burning device for heat during an emergency power outage that leaves a person's residence or commercial establishment temporarily without an

adequate source of heat [RCW 70A.15.3580 (5) (a)]. A written exemption is not required. A person must comply with Section 8.07 after a time period of three (3) hours after power is restored by utility provider. A person must comply with Section 8.05 and 8.06 at all times.

~~((B-))~~ (B) Exemption Duration and Renewals. Written exemptions shall be valid for a period determined by the Agency, which shall not exceed one (1) year from the date of issuance. Exemptions in Section 8.08 ~~((A.1 & 2))~~ (A) (1) and (2) may be renewed by the Agency, provided the applicant meets the applicable requirements at the time of exemption renewal. For renewals under Section 8.08 ~~((A.1))~~ (A) (1), the applicant must demonstrate the low income status is met each time application is made. Exemption requests may be denied by the Agency, regardless of the applicant's exemption history.

~~((C-))~~ (C) Fees. Exemption requests must be accompanied by fees specified in Article X, Section 10.10 and ~~((SRCAA))~~ the ~~((is fee schedule))~~ Consolidated Fee Schedule. For exemptions which are requested and qualify under the low income exemption in Section 8.08 ~~((A.1))~~ (A) (1), the fee is waived.

~~((D-))~~ (D) One-Time, 10-Day Temporary Exemption.

(1) ~~((SRCAA))~~ The Agency may issue one-time, 10-day temporary solid fuel burning device exemptions if persons making such requests qualify and provide all of the information below. Unless required otherwise by ~~((SRCAA))~~ the Agency, such exemptions requests may be taken via telephone.

~~((1-))~~ (a) Full name; and

~~((2-))~~ (b) Mailing address; and

~~((3-))~~ (c) Telephone number; and

~~((4-))~~ (d) Acknowledgement that he/she believes he/she qualifies for an exemption pursuant to Section 8.08 ~~((A.1, 2, or 3))~~ (A) (1), (2), or (3); and

~~((5-))~~ (e) Physical address where the exemption applies; and

~~((6-))~~ (f) Description of the habitable space for which the exemption is being requested; and

~~((7-))~~ (g) Acknowledge that s/he has not previously requested such an exemption for the same physical address, except as provided below, and that all of the information provided is accurate.

(2) One-time, 10-day temporary solid fuel burning device exemptions are not valid for any physical address for which a one-time, 10-day temporary solid fuel burning device exemption has previously been issued unless a past exemption was issued for a residence under different ownership or there is a temporary breakdown that qualifies under Section 8.08 ~~((A.3))~~ (A) (3).

~~((E-))~~ (E) Residential and Commercial Exemption Limitations. Except for commercial establishments qualifying under Section 8.08 ~~((A.3))~~ (A) (3), (A) (4) or 8.08 ~~((D))~~ (D), exemptions are limited to residences. Exemptions are limited to normally inhabited areas of a residence, which includes areas used for living, sleeping, cooking and eating. Exemptions will not be issued for attached and detached garages, shops, and outbuildings. For commercial establishments, exemptions will be limited to areas identified in exemption approvals issued by ~~((SRCAA))~~ the Agency pursuant to Section 8.08 ~~((A.3))~~ (A) (3) or 8.08 ~~((D))~~ (D).

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 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 8.09 PROCEDURE TO GEOGRAPHICALLY LIMIT SOLID FUELBURNING DEVICES

~~((A-))~~ (A) Solid Fuel Burning Devices Contribute to Air Quality Violation. If the EPA finds that the Spokane PM₁₀ Maintenance Area has violated a National Ambient Air Quality Standard for PM₁₀ and emissions from solid fuel burning devices are determined by the EPA, in consultation with Ecology and the Agency, to be a contributing factor to such failure or violation, then one (1) year after such determination, the use of solid fuel burning devices not meeting the standards set forth in RCW ~~((70.94.457))~~ 70A.15.3530 and WAC 173-433-100, is restricted to areas outside the Smoke Control Zone.

~~((B-))~~ (B) Notice of Determination. Within thirty (30) days of the determination pursuant to Section 8.09~~((A-))~~ (A), the Agency shall publish a public notice in a newspaper of general circulation, informing the public of such determination and of the date by which such restriction on the use of solid fuel burning devices becomes effective.

~~((C-))~~ (C) Exemptions. Nothing in Section 8.09 shall apply to persons who have obtained an exemption pursuant to Section 8.08.

AMENDATORY SECTION

SECTION 8.10 RESTRICTIONS ON INSTALLATION AND SALES OF SOLID FUEL BURNING DEVICES

~~((A-))~~ (A) Installation of Solid Fuel Burning Devices. No person shall install a new or used solid fuel burning device that is not a Washington certified device in any new or existing building or structure unless the device is a cook stove or a device which has been rendered permanently inoperable.

~~((B-))~~ (B) Sale or Transfer of Solid Fuel Burning Devices. No person shall sell, offer for sale, advertise for sale, or otherwise transfer a new or used solid fuel burning device that is not a Washington certified device to another person unless the device is a cook stove or a device which has been rendered permanently inoperable (RCW ~~((70.94.457))~~ 70A.15.3530 (1) (a)).

~~((C-))~~ (C) Sale or Transfer of Fireplaces. No person shall sell, offer for sale, advertise for sale, or otherwise transfer a new or used fireplace to another person, except masonry fireplaces, unless such fireplace meets the 1990 United States environmental protection agency standards for woodstoves or equivalent standard that may be established by the state building code council by rule (RCW ~~((70.94.457))~~ 70A.15.3530 (1) (b)).

~~((D-))~~ (D) Sale or Transfer of Masonry Fireplaces. No person shall build, sell, offer for sale, advertise for sale, or otherwise transfer a new or used masonry fireplace, unless such fireplace meets Washington State building code design standards as established by the state building code council by rule (RCW ~~((70.94.457))~~ 70A.15.3530 (1) (c)).

AMENDATORY SECTION

SECTION 8.11 REGULATORY ACTIONS AND PENALTIES

A person ~~((in violation of))~~ violating this ((a)) Article may be subject to the provisions of Article II, Section 2.11 - Penalties, Civil Penalties, and Additional Means for Enforcement.

AMENDATORY SECTION

SECTION 10.01 DEFINITIONS

(A) Unless a different meaning is clearly required by context, words and phrases used in Regulation I, Article X, shall have the following meaning:

(1) *Emission Fee* means the component of a registration fee or operating permit fee, which is based on total actual annual emissions of criteria and toxic air pollutants, except as provided in Section 10.06 (B) (2). In the case of a new or modified source or a source being registered initially, the emission fee is based on projected emissions as presented in an approved Notice of Construction (NOC) or registration form.

(2) *Registration Period* means the calendar year for which an annual fee has been assessed per Section 10.06 (B) (1).

AMENDATORY SECTION

SECTION 10.02 FEES AND CHARGES REQUIRED

(A) (~~(Additional Fee for Failure to Pay)~~) Late Fees. Failure to pay a ((A))ny fee assessed under Article X after (~~(shall be paid within)~~) forty-five (45) days of the original payment due date (~~(assessment. Failure to pay an assessed fee in full within ninety (90) days assessment will)~~) may result in (~~(the imposition of)~~) an additional late fee of (~~(equal to)~~) 25% of the original fee.

(B) Penalty. Persons required to pay emission or permit fees who are more than ninety (90) days late with such payments may be subject to a penalty equal to three (3) times the amount of the original fee assessed per RCW 70A.15.3160.

(C) (~~(B)~~) Revenues Collected per RCW ((70.94.161)) 70A.15.2260. Revenues collected per RCW ((70.94.161)) 70A.15.2260 shall be deposited in the operating permit program dedicated account and shall be used exclusively for that ((e)) program.

(D) (~~(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).

(E) (~~(D)~~) Periodic Fee Review. The Board shall periodically review all agency fees in the Consolidated 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 Consolidated Fee Schedule to more accurately 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

(A) Annual Fee. Each source required by SRCOA 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 and)~~) submit an NOC ((and Application)) application and obtain an (~~(for)~~) Order of Approval, is required to pay an annual fee for each calendar year, or portion of each calendar year, during which it oper-

ates. 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:

(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 Consolidated 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.

(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.

(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~~) 70A.15.2270(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 Consolidated Fee Schedule, for time expended in carrying out the fee eligible activities specified in Chapter ((~~70.94~~) 70A.15 RCW; and

2. Ecology Assessment. A share of the assessment by Ecology per RCW ((70.94.162)) 70A.15.2270(3), as determined per the Consolidated 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 representative fiscal years out of the four (4) preceding fiscal years, rounded-up to the nearest one (1) dollar.

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 10.07 NOTICE OF CONSTRUCTION (NOC) AND PORTABLE SOURCE PERMIT (PSP) APPLICATION FEES

(A) NOC and PSP Fees.

(1) NOC/PSP Class, Base Fee, Fee for Additional NOC/PSP Review Hours, SEPA Fee, and Fee Determination. For each project required by SRCAA Regulation I, Article V, to file a NOC or a PSP application, the owner or operator must pay the following applicable fees in (b) through (d) below:

(a) NOC/PSP Class. Each NOC/PSP application will be assigned a Class, as follows:

1. Class I - PSP to install and operate portable 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 roasters with capacities greater than 5kg (11 lbs) per batch
Degreaser/solvent cleaner (not subject to 40 CFR Part 63, Subpart T) subject to Article IV
Dry cleaner (nonhalogenated solvent)
Evaporator subject to Article IV
Gasoline dispensing facility with maximum annual gasoline throughput less than or equal to 1.9 ((1.5)) million gallons
Graphic art system, including lithographic and screen printing operation, subject to Article IV
Material handling equipment (e.g. baghouse, cyclone) ((Material handling operation)) that exhaust((s)) greater than 1,000 and less than 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 crushers
Spray booth/surface coating operations that exhaust((s)) less than or equal to 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
Bakery subject to Article IV

Article IV Source/Source Category Description
Bed lining or undercoating operation subject to Article IV
Boiler and other fuel-burning equipment with maximum per unit heat input less than 100 MMBtu/hr
Brick and clay products manufacturing operations
Burn out, kiln, and curing oven
Chrome plating operation
Concrete production operation
Dry cleaners ((halogenated solvent)) utilizing Perchloroethylene (Perc)
Gasoline dispensing facility with maximum annual gasoline throughput greater than ((1.5)) 1.9 million gallons
Grain handling; seed, pea and lentil processing facility
Incinerator/crematory
Internal combustion engine used for standby, <u>emergency, or back-up</u> operations rated greater than or equal to 500 bhp
Internal combustion engine, <u>not used for standby, emergency, or back-up operations</u> ((other than engines used for standby or backup operation)) rated greater than or equal to 100 bhp
<u>Material handling equipment (e.g. baghouse, cyclone)</u> ((Material handling operation)) that exhaust((s)) greater than or equal to 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 greater than 55 gallons per year of all VOC and toxic air pollutant containing materials
Spray booth/surface coating operations that exhaust((s)) greater than 10,000 acfm to the ambient air
Storage tanks for organic liquid with capacity greater than 20,000 gallons
Stump/wood waste 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 greater than or equal to 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/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/PSP application. The base fee applicable for each NOC/PSP Class is listed in the Consolidated Fee Schedule.

1. For each NOC/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/PSP.

2. For sources with one or more emission points under one NOC application, 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/PSP Review Hours. When the staff time hours spent reviewing and processing a NOC/PSP application exceeds the listed number of base-fee hours provided in the Consolidated Fee Schedule for the applicable class of NOC/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/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, per the State Environmental Policy Act (SEPA) Chapter 197-11 WAC is required in association with a NOC or a 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/PSP class by the hourly rate listed in the Fee Schedule.

2. Hourly Rate. The hourly rate is calculated by:

$$\text{Hourly Rate} = \frac{\text{Total NOC and PSP Program Costs}}{\text{Total NOC and PSP Program Hours}}$$

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) 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).

(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. (rounded-up to the nearest half-hour), by the hourly rate as listed in the 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:

$$\text{Hourly Rate} = \frac{\text{Total NOC and PSP Program Costs}}{\text{Total NOC and PSP Program Hours}}$$

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) 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 NOC/PSP application is submitted to the Agency. Review of the NOC/PSP application will not commence until the applicable base fee is received.

(2) After Application.

(a) Complete Applications. The Agency will invoice the owner, operator, or both, for Fees for Additional NOC/PSP Review Hours, if applicable. The fees shall 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 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 applicable base fee.

(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:

$$\text{Hourly Rate} = \frac{\text{Total NOC and PSP Program Costs}}{\text{Total NOC and PSP Program Hours}}$$

(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) 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~~)) 70A.15.2310 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)) The applicant must pay the initial filing fee upon submittal of the variance application to SRCAA. The balance of the variance fee 10.08 (A) (2) (b) 2. - 4. will be invoiced to the applicant and must be paid by the applicant prior to receiving ((with)) the final determination.

(b) The variance request fee is calculated by adding all of the applicable fees described below:

1. Initial ((F)) filing fee per the Consolidated Fee Schedule, must be paid upon submittal of the variance application.

2. Agency legal fees related to the variance request.

3. 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) 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~~)) 70A.15.3000 (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:

$$\text{Hourly Rate} = \frac{\text{Total NOC and PSP Program Costs}}{\text{Total NOC and PSP Program Hours}}$$

(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) 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) (3); 6.13 (F) (4); 6.13 (F) (6) and 6.13 (F) (9).

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 Consolidated Fee Schedule.

(d) Hourly Rate. The hourly rate is calculated by:

$$\text{Hourly Rate} = \frac{\text{Total NOC and PSP Program Costs}}{\text{Total NOC and PSP Program Hours}}$$

(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) 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)~~) 3.02(B).

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