

# Regulation of the Northwest Clean Air Agency

Effective June 14, 2020



*Serving Island, Skagit & Whatcom Counties*



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**SECTION 100 - NAME OF AGENCY**

- 100.1 The multi-county agency, consisting of Island, Skagit and Whatcom Counties, having been formed pursuant to the Washington State Clean Air Act RCW 70.94, shall be known and cited as the "Northwest Clean Air Agency", and hereinafter may be cited as the "NWCAA" or the "Authority."
- 100.2 Any reference to the Northwest Air Pollution Authority, the Authority or the NWAPA in any document previously issued by the agency, including without limitation orders, permits, judgments, letters and the like shall be deemed reference to the Northwest Clean Air Agency or the NWCAA.

AMENDED: July 14, 2005

**SECTION 101 - SHORT TITLE**

- 101.1 This Regulation may be known and cited as the "Regulation of the Northwest Clean Air Agency".

**SECTION 102 - POLICY**

- 102.1 It shall be the policy of the NWCAA to secure and maintain such levels of air quality as will protect human health and safety, prevent injury to plant and animal life and to property, and foster the comfort and convenience of the inhabitants of this area in order to facilitate their enjoyment of the area's natural beauty and thus promote economic and social well-being.
- 102.2 In order to carry out the requirements of the Washington Clean Air Act and to provide uniform administration and enforcement, the NWCAA adopts the following policies, procedures, standards, prohibitions, and ambient air quality objectives.

The establishment of control procedures, compliance schedules, emission and ambient air standards, and prohibitions are the administrative means of achieving this goal.

- 102.3 Guidelines

In carrying out its responsibilities for air pollution control the NWCAA is concerned with the interrelationship of land use, activities of people, and industries since each of these contributes to the overall air pollution problem. The ongoing program carried out by the NWCAA attempts to seek solutions to existing problems and to develop strategies for prevention of problems as the area of jurisdiction experiences growth and change. To accomplish this best, it is necessary for the NWCAA to enter into the planning stages of domestic and industrial development and to participate with other agencies in decisions on location of population and industrial centers considering the kinds of air contaminants these may emit in relation to those from

surrounding areas. Coordination with air pollution authorization and other agencies in contiguous areas is necessary.

In the development of strategies, it is necessary to consider three very interrelated areas and develop appropriate guidelines for:

- (a) Minimal degradation of air quality.
- (b) Implementation of land use and zoning.
- (c) Population density control.

#### 102.4 Minimal Degradation Guidelines

It shall be the policy of the NWCAA not to allow the atmosphere to degrade below the levels set out by appropriate air quality objectives. These are the points where the health, comfort, and convenience of the individual is assured and the effects of air pollution are known not to occur. To achieve this objective, it shall be necessary, when growth or change occurs, to:

- 102.41 Require the best practical technology for those who locate here or are required to upgrade their facilities.
- 102.42 Allow expansion of an area only if the probable emissions of the newcomers, when added to those from presently existing facilities, are not likely to cause violations of existing ambient air standards.

#### 102.5 Land Use Planning and Zoning

Zoning is the most effective way to regulate land use. The practice in land use planning to allocate certain districts for particular uses can create a problem.

By locating too many units which emit similar types of pollutants in one area, a problem may be created which would ordinarily not exist or be of minimal consequence if the units were more scattered.

Air pollution control authorities have a responsibility to minimize the impact of air contaminants and to keep the air basins within the NWCAA's jurisdiction below the air quality objectives even under the most adverse meteorological conditions. The NWCAA thus has a planning responsibility in terms of warning and insuring that incompatible land uses do not occur. It is the policy of the NWCAA to work with other agencies to assure that:

- 102.51 Incompatible land uses are discouraged.
- 102.52 Zones are intermixed in such a way that air pollution problems may be minimized.



- 102.53 Zones are not made so large that air pollution problems are created by locating too many units with similar emissions. In industrial zones, the industries should be dissimilar in nature to minimize the concentration of a single contaminant.

102.6 Population Density Control

In land use planning the density of use is an important factor to consider along with the type of zone degradation. In problem areas, often times the type of zone is not at fault but too many units of a given type are allowed.

It shall be the policy of the NWCAA, in order to minimize the population density problem to recommend that:

- 102.61 Zones should be intermixed in such a way that high density zones are intermixed with low density zones so as to reduce air contaminant output.
- 102.62 As the density of zones becomes greater, consideration must be given to restricting the number of units a given zone can accommodate.
- 102.63 Concentrations of population or industries be allowed only up to the point where there is reason to believe that the air quality objectives in a given air basin are not likely to be exceeded.

PASSED: January 8, 1969 AMENDED: February 14, 1973, August 9, 1978, February 10, 1993, May 11, 1995, July 14, 2005

**SECTION 103 - DUTIES AND POWERS**

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

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

- 103.2 The Board shall require that the Control Officer maintain appropriate records and prepare periodic reports.
- 103.3 The Board shall receive minutes of meetings of the Advisory Council as required. The decisions of the Advisory Council shall be forwarded to the

Board in writing and shall include minority opinions in cases of serious disagreement.

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

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

#### **SECTION 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES**

- 104.1 All provisions of the following state rules that are in effect as of February 19, 2020 are hereby adopted by reference and made part of the Regulation of the NWCAA: chapter 173-400 WAC, (except— -025, -030, -035, -036, -040(1) & (7), -045, -075, -099, -100, -101, -102, -103, -104, -105(7), -110, -114, -115, -116, -171, -930), chapter 173-401 WAC, chapter 173-407 WAC, chapter 173-420 WAC, chapter 173-425 WAC, chapter 173-430 WAC, chapter 173-433 WAC, chapter 173-434 WAC, chapter 173-435 WAC, chapter 173-441 WAC, chapter 173-442 WAC, chapter 173-450 WAC, chapter 173-460 WAC, chapter 173-476 WAC, chapter 173-480 WAC, chapter 173-481 WAC, chapter 173-485 WAC, chapter 173-491 WAC. The requirements of the NWCAA Regulation apply in addition to the state-wide regulations adopted and enforced under this paragraph.

- 104.2 All provisions of the following federal rules that are in effect as of February 19, 2020 are hereby adopted by reference and made part of the Regulation of the NWCAA: 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans) Appendix M; 40 CFR Part 60 (Standards of Performance For New Stationary Sources) subparts A, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, Ga, H, I, J, Ja, K, Ka, Kb, L, M, N, Na, O, P, Q, R, T, U, V, W, X, Y, Z, AA, AAa, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, VVa, WW, XX, AAA, BBB, DDD, FFF, GGG, GGGa, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, XXX, AAAA, CCCC, EEEE, IIII, JJJJ, KKKK, LLLL, OOOO, OOOOa, QQQQ, and Appendix A - I; 40 CFR Part 61 (National Emission Standards For Hazardous Air Pollutants) Subparts A, C, D, E, F, J, L, M, N, O, P, V, Y, BB, FF; 40 CFR Part 62 (Approval and Promulgation of State Plans for Designated Facilities and Pollutants) Subpart LLL; 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) Subparts A, B, C, D, F, G, H, I, L, M, N, O, Q, R, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN,

OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBB, CCCCC, DDDDD, EEEEE, FFFFF, GGGGG, HHHHH, IIIII, LLLLL, MMMMM, NNNNN, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, WWWW, YYYYY, ZZZZ, BBBB, CCCCC, EEEEE, FFFFF, GGGGG, HHHHH, JJJJJ, MMMMM, NNNNN, QQQQ, SSSS, TTTT, VVVVV, WWWWW, XXXXX, ZZZZZ, AAAAAA, DDDDDD, EEEEE, and HHHHHH; and 40 CFR Parts 72, 73, 74, 75, 76, 77 and 78 (Acid Rain Program).

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

## **SECTION 105 - SEPARABILITY**

105.1 If a section of the Regulation of the NWCAA is declared unconstitutional or the application thereof to any person or circumstance is held invalid, the constitutionality or validity of every other provisions of the Regulation of the NWCAA shall not be affected thereby.

## **SECTION 106 - PUBLIC RECORDS**

106.1 AUTHORITY AND PURPOSE.

- (A) The Northwest Clean Air Agency (NWCAA) will make available for inspection and copying nonexempt public records in accordance with the Public Records Act, chapter 42.56 RCW. The Public Records Act defines public records to include any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the agency.
- (B) The purpose of this section is to establish the procedures the NWCAA will follow in order to provide full access to nonexempt public records. These sections provide information to persons wishing to request access to public records of the NWCAA and establish processes for both requesters and NWCAA staff that are designed to best assist members of the public in obtaining records.

106.2 AGENCY CONTACT INFORMATION

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

Public Records Officer  
Northwest Clean Air Agency  
1600 S Second St  
Mount Vernon, WA 98273-5202  
Phone: 360-428-1617  
Facsimile: 360-428-1620  
Email: PublicInformationRequests@nwcleanairwa.gov

Requests may be submitted on the NWCAA website at [www.nwcleanairwa.gov](http://www.nwcleanairwa.gov).

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

### 106.3 AVAILABILITY OF PUBLIC RECORDS.

- (A) Public records are available for inspection Monday through Friday during the hours of 8:30 a.m. to 4:00 p.m., excluding legal holidays. Records must be inspected at the NWCAA office. Arrangements to inspect records should be made in advance with the Public Records Officer.
- (B) The NWCAA finds that maintaining an index is unduly burdensome and would interfere with agency operations due to the agency's small size and the high volume and types of public records generated and received by the agency.
- (C) The NWCAA will maintain its records in a reasonably organized manner. The NWCAA will take reasonable actions to protect records from damage and disorganization.
- (D) Making a Request for Public Records. Any person wishing to inspect or to have copies made of public records should make this request in writing by letter, email sent to [PublicInformationRequests@nwcleanairwa.gov](mailto:PublicInformationRequests@nwcleanairwa.gov), or through the NWCAA website at [www.nwcleanairwa.gov](http://www.nwcleanairwa.gov).
  - (1) The request should include the following information:
    - (a) Name of requester;
    - (b) Address of requester;
    - (c) Other contact information, including telephone number and email address;
    - (d) Identification of the information or records sought adequate to locate the records; and

- (e) The date and time of day of the request.
- (2) The Public Records Officer may accept requests for public records by telephone or in person. The Public Records Officer will confirm receipt of the request and summarize the request in writing.
- (3) If requesters refuse to identify themselves or provide sufficient contact information, the NWCAA will respond to the extent feasible and consistent with the law.

#### 106.4 PROCESSING OF PUBLIC RECORDS REQUESTS

- (A) The Public Records Officer will provide the fullest assistance to requesters and prevent excessive interference with other essential functions of the NWCAA.
- (B) Within 5 business days of receipt of a request, the Public Records Officer will do one or more of the following:
  - (1) Make the records available for inspection.
  - (2) Provide a copy of the record.
    - (a) If photocopies or scanned copies are requested, the Public Records Officer will notify the requester with an estimated cost of the copies and make arrangements for payment.
    - (b) If the records are available on the NWCAA website, the Public Records Officer will provide an internet address to the specific records requested.
  - (3) Provide a reasonable estimate of when records or an installment of records will be available.
  - (4) Ask the requester to provide clarification for a request that is unclear. If the requester fails to respond to a request for clarification and the entire request is unclear, the NWCAA need not respond to it. The NWCAA will respond to those portions of a request that are clear.
  - (5) Deny the request.
- (C) If the NWCAA does not respond within 5 business days of receipt of the request, the requester should contact the Public Records Officer to determine the reason for the failure to respond.
- (D) The NWCAA will notify the requester when records are available for inspection and provide space to review documents. No member of the public may remove a document from the designated reviewing area or from the file. The requester shall indicate which documents he or she wishes the NWCAA to copy.

- (E) The Public Records Officer will evaluate the request according to the nature and volume of the request. The Public Records Officer will process requests in the order allowing the most requests to be processed in the most efficient manner.
- (F) When the request is for a large number of records, the Public Records Officer may provide access for inspection or send copies in installments.
- (G) If, after the NWCAA has informed the requester that it has provided all available records, the NWCAA becomes aware of additional responsive documents existing at the time of the request, the Public Records Officer will promptly inform the requester of the additional documents and provide them on an expedited basis.
- (H) When the requester either withdraws the request, fails to clarify an unclear request, fails to pay the deposit, fails to make final payment for the requested copies, or fails to inspect or claim the requested records within 30 days after notification, the Public Records Officer may close the request and refile the records.

106.5 COSTS OF PROVIDING COPIES OF PUBLIC RECORDS

- (A) There is no fee for inspecting public records or for the NWCAA's time spent locating public documents and making them available. There is no fee for providing electronic records if they already exist in an electronic format.
- (B) The NWCAA is not calculating actual costs for copying its records because to do so would be unduly burdensome for the following reasons: the NWCAA does not have the resources to conduct a study to determine actual copying costs for all its records and to conduct such a study would interfere with other essential agency functions. Therefore, in order to timely implement a fee schedule consistent with the public records act, it is more cost efficient, expeditious and in the public interest for the NWCAA to adopt the state legislature's approved fees and costs for most of the NWCAA records, as authorized in RCW 42.56.120 and as published in NWCAA 106.5(C).
- (C) The costs for copying and conveying records are as follows:

<b>Public Records Fee Schedule</b>	
15 cents / standard page	Photocopies provided by NWCAA staff using agency equipment - no fee for first 100 pages per request
10 cents / standard page	Scanned documents provided by NWCAA staff using agency equipment (if the documents are not already in electronic format) – no fee for first 100 pages per request
Actual cost	Digital storage media or devices
Actual cost	Any container or envelope used to mail copies

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Actual cost	Postage or delivery charges
Actual cost	Copying or scanning charged by an outside vendor
Actual cost	Expertise to prepare data compilations or provide customized electronic access services
Actual cost	Retrieving documents out of storage
Other	Other charges allowed in RCW 42.56.120

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

106.6 EXEMPT RECORDS

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

- (1) Confidential business information. The owner or operator of a source may certify that a record or information provided to the agency is confidential because it relates to a process or production unique to the owner or operator or is likely to affect adversely the competitive position if released. Emission and ambient air quality data are excluded from any confidential claim. (RCW 70.94.205)
- (2) Attorney-client communications. Communication between an attorney, who is acting as counsel or advisor, and NWCAA staff is confidential unless a member of the public is copied on that communication (RCW 5.60.060(2)(a))
- (3) Preliminary drafts, notes, recommendations, and intra-agency memorandums (RCW 42.56.280)
- (4) List of individuals (private or natural persons) for commercial purpose. The NWCAA is prohibited by statute from disclosing lists of individuals for commercial purposes (RCW 42.56.070(8))
- (5) Investigative records and information pertaining to ongoing investigations where premature disclosure could jeopardize effective law enforcement or any person's right to privacy. (RCW 42.56.240(1))
- (6) Identity of persons who file a complaint with the NWCAA if disclosure would endanger any person's life, physical safety or property. If at the time a complaint is filed, the complainant indicates a desire for nondisclosure, such desire shall govern (RCW 42.56.240(2))

- (B) For records or portions of records that are withheld, the Public Records Officer will document the applicable exemption and provide a brief

written explanation as to why the record or portion of the record is being withheld.

- (C) In the event that the requested public records contain information that may affect rights of others and may be exempt from disclosure, the Public Records Officer may, prior to providing the public records, give notice to such others whose rights may be affected by the disclosure.

#### 106.7 REVIEW OF DENIALS OF PUBLIC RECORD

- (A) Any person who objects to the initial denial or partial denial of a records request may petition in writing to the Control Officer of the NWCAA for a review of that decision. The petition shall include a copy of the written statement by the Public Records Officer denying the request.
- (B) The Control Officer or designee will either affirm or reverse the denial within 10 business days following the NWCAA's receipt of the petition.
- (C) Any person may petition the Skagit County Superior Court for a review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of 10 business days after the initial denial regardless of any internal appeal process.

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

### **SECTION 110--INVESTIGATION AND STUDIES**

- 110.1 The Control Officer and/or his qualified agents may make any reasonable investigation or study which is necessary for the purpose of standards or any amendments thereto on reducing the amount or kind of contaminant.
- 110.2 When investigating conditions specific to the control, recovery or release of air contaminants, the Control Officer or his duly authorized representatives shall have the power to enter at reasonable times upon any private or public property, except non-multiple unit private dwellings housing two families or less.
- 110.3 If an authorized employee of the NWCAA, during the course of an inspection desires to obtain a sample of air contaminant, he shall notify the owner or lessee of the time and place of obtaining a sample so the owner or lessee has the opportunity to take a similar sample at the same time and place. A receipt shall be given to the owner or lessee for the sample obtained.

PASSED: January 8, 1969



**SECTION 111 - INTERFERENCE OR OBSTRUCTION**

111.1 No person shall willfully interfere with or obstruct the Control Officer or any NWCAA employee and/or assigned agent in carrying out any lawful duty.

PASSED: January 8, 1969

**SECTION 112 - FALSE AND MISLEADING ORAL STATEMENT: UNLAWFUL REPRODUCTION OR ALTERATION OF DOCUMENTS**

112.1 No person shall willfully make a false or misleading oral statement to the NWCAA Board, Control Officer, or their duly authorized representatives as to any matter within the jurisdiction of the Board.

112.2 No person shall reproduce or alter or cause to be reproduced or altered any order, registration certificate, or other paper issued by the NWCAA if the purpose of such reproduction or alteration is to evade or violate any provision or Regulation of the NWCAA, or any other law.

PASSED: January 8, 1969 AMENDED: February 14, 1973, November 12, 1999

**SECTION 113 - SERVICE OF NOTICE**

113.1 Service of any written notice required by the Regulation of the NWCAA shall be made on the owner, operator or his registered agent, as follows:

113.11 Either by mailing the notice certified mail, with return receipt requested; or

113.12 By personal service.

113.2 Any individual, owner, operator, or registered agent of any business, corporation or government coming under the Regulations of the NWCAA may be required to submit evidence that said person is authorized to sign and execute documents on behalf of said corporation, business or government.

PASSED: January 8, 1969 AMENDED: February 14, 1973, November 8, 2007

**SECTION 114 - CONFIDENTIAL INFORMATION**

114.1 Whenever any records or other information other than ambient air quality data or emission data furnished to or obtained by the NWCAA, relates to processes or production unique to the owner or operator, or are likely to affect adversely the competitive position of such owner or operator if released to the public or to a competitor, and the owner or operator of such processes or production so certifies, such records or information shall be only for the confidential use of the NWCAA.

114.2 Nothing herein shall be construed to prevent the use of records or information by the NWCAA in compiling or publishing analyses or summaries relating to the general condition of the outdoor atmosphere: provided, that such analyses or summaries do not reveal any information otherwise confidential under the provisions of this section : provided further, that emission data furnished to or obtained by the Board shall be correlated with applicable emission limitations and other control measures and shall be available for public inspection during normal business hours at the office of the NWCAA.

PASSED: January 8, 1969 AMENDED: October 1, 1969, January 8, 1970, February 14, 1973, July 11, 1973, April 14, 1993, March 13, 1997, November 8, 2007

## **SECTION 120 - HEARINGS**

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

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

120.12 All evidence, including but not limited to records, and documents in the possession of the Board of which it desired to avail itself, shall be offered and made a part of the record in the case, and no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

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

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

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

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

## **SECTION 121 - ORDERS**

- 121.1 The NWCAA may issue such orders as may be necessary to effectuate and enforce the purposes of chapter 70.94 RCW or the rules adopted thereunder.
- 121.2 If the NWCAA has reason to believe that any provision of chapter 70.94 RCW or the rules adopted thereunder has been violated, the NWCAA may, in addition to any other remedy of law, issue an order that requires corrective action be taken within a reasonable time. Such compliance orders may include dates by which the violation or violations shall cease and may set time schedules for necessary action in preventing, abating, or controlling the emissions.
- 121.3 Orders of approval related to the establishment of a source are addressed under NWCAA 300, in lieu of the requirements in this section.
- 121.4 General Orders of Approval are issued under WAC 173-400-560, as adopted in NWCAA 104.1, in lieu of the requirements in this section.
- 121.5 Any order issued under this section that includes an action listed in NWCAA 305.2(A) is subject to the public involvement provisions of NWCAA 305.
- 121.6 For regulatory orders related to a RACT determination, a fee shall be assessed in accordance with NWCAA 309.7. For all other orders issued under NWCAA 121, the NWCAA shall assess a fee as specified in NWCAA 324.7 to cover the costs of processing and issuing such order.
- 121.7 When an applicant requests a regulatory order to limit the potential to emit of any air contaminant or contaminants pursuant to WAC 173-400-091, as adopted in NWCAA 104.1, or requests a modification to such an order, the NWCAA shall issue such order consistent with the requirements of WAC 173-400-091 as adopted in NWCAA 104.1 in addition to the requirements of this Regulation.

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

## **SECTION 123 – APPEAL OF ORDERS**

- 123.1 Any order issued by the NWCAA shall become final unless, no later than thirty (30) days after the date that the order is served, any person appeals the order to the Pollution Control Hearings Board as provided by chapter 43.21B RCW. This is the exclusive means of appeal of such an order.

123.2 Any order issued by the NWCAA under appeal in accordance with chapter 43.21B RCW shall remain in effect during the pendency of such appeal unless the Control Officer, at his/her discretion, issues a stay of the original order. At any time during the pendency of an appeal of such an order to the Pollution Control Hearings Board, the appellant may apply to the Pollution Control Hearings Board pursuant to chapter 43.21B RCW to stay or vacate the order.

PASSED: January 8, 1969 AMENDED: July 8, 1970, February 14, 1973, November 15, 1988, November 8, 2007, March 14, 2013

**SECTION 124 - DISPLAY OF ORDERS, CERTIFICATES AND OTHER NOTICES: REMOVAL OR MUTILATION PROHIBITED**

124.1 Any order, registration certificate or other certificate required to be obtained by the Regulations of the NWCAA shall be available on the premises designated on the order or certificate.

124.2 In the event that the NWCAA 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 Board or the Control Officer.

PASSED: January 8, 1969 AMENDED: February 14, 1973

**SECTION 131 – NOTICE TO VIOLATORS**

131.1 At least 30 days prior to the commencement of any formal enforcement action under RCW 70.94.430 or 70.94.431, or NWCAA 132 or 133, the NWCAA shall cause written notice of violation to be served upon the alleged violator. The notice shall specify the provisions of chapter 70.94 RCW or the orders, rules, or regulations adopted pursuant thereto alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order pursuant to NWCAA 121 directing that necessary corrective action be taken within a reasonable time. In lieu of an order, the Control Officer may require that the alleged violator appear before the Board for a hearing pursuant to NWCAA 120. Every notice of violation shall offer to the alleged violator an opportunity to meet with the NWCAA prior to the commencement of enforcement action.

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

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

**SECTION 132 - CRIMINAL PENALTY**

- 132.1 Any person who knowingly violates any of the provisions of Chapter 70.94 RCW as referenced in NWCAA 104.1, or any ordinance, resolution, or regulation in force pursuant thereto, including the Regulation of the NWCAA, is guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$10,000, or by imprisonment in the county jail for up to 364 days, or by both for each separate violation.
- 132.2 Any person who negligently releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm is guilty of a gross misdemeanor and shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for up to 364 days, or both.
- 132.3 Any person who knowingly releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, is guilty of a class C felony and shall, upon conviction, be punished by a fine of not less than \$50,000, or by imprisonment for not more than five years, or both.
- 132.4 Any person who knowingly fails to disclose a potential conflict of interest under RCW 70.94.100 as referenced in NWCAA 104.1 is guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$5,000.
- 132.5 Any person who knowingly renders inaccurate any required monitoring device or method required by chapter 70.94 RCW as referenced in NWCAA 104.1, or any ordinance, resolution, or regulation in force pursuant thereto, including the Regulation of the NWCAA is guilty of a crime and shall, upon conviction, be punished by a fine of not less than \$10,000 per day for each separate violation.
- 132.6 Any person who knowingly makes any false material statement, representation, or certification in any form, in any notice or report required by chapter 70.94 RCW as referenced in NWCAA 104.1, or any ordinance, resolution, or regulation, in force pursuant thereto, including the Regulation of the NWCAA is guilty of a crime and shall, upon conviction, be punished by a fine of not less than \$10,000 per day for each separate violation.

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

**SECTION 133 - CIVIL PENALTY**

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

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

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

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

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

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

133.3 Penalties incurred but not paid shall accrue interest, beginning on the 91<sup>st</sup> day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020. If penalties are appealed, interest shall not begin to accrue until the 31<sup>st</sup> day following final resolution of the appeal.

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

133.4 In addition to other penalties, persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than 90 days late with such payments, may be subject to a penalty equal to three times the amount of the original fee owed.

133.5 The suspended portion of any civil penalty, issued under Section 133 of this Regulation, shall be due and payable in the event of future penalties against the same person within five years from the date of said suspension. After

five years the suspended portion of the Penalty shall be considered void and of no force or effect.

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

### **SECTION 134 - RESTRAINING ORDERS - INJUNCTIONS**

134.1 Notwithstanding the existence or use of any other remedy, whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provisions of the Regulation of the NWCAA, or any rule, regulation or order issued by the Board or the Control Officer or his authorized agent, the Board, after notice to such person and an opportunity to comply, may petition the Superior Court of the County wherein the violation is alleged to be occurring or to have occurred, for a restraining order or a temporary or permanent injunction or another appropriate order.

PASSED: January 8, 1969 AMENDED: October 1, 1969, February 14, 1973, February 10, 1993

### **SECTION 135 – ASSURANCE OF DISCONTINUANCE**

135.1 The NWCAA may accept an assurance of discontinuance of any act or practice deemed in violation of these Regulations from any person engaging in, or who has engaged in, such an act or practice. Any such assurance shall specify a time limit during which such discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of these Regulations or an order issued which makes the practice unlawful for the purpose of securing an injunction or other relief from the Superior Court as provided in Section 134.

PASSED: January 8, 1969 AMENDED: February 14, 1973, August 9, 1978, November 8, 2007

### **SECTION 140 - REPORTING BY GOVERNMENT AGENCIES**

140.1 State and Federal agencies, within the jurisdiction of the NWCAA, which are required by State and Federal law to abide by the Regulation of the NWCAA shall notify the NWCAA, prior to construction of any facility which has the potential to create air pollution, the name and location of the agency involved, the nature of the construction and the type and quantity of equipment involved and the type and quantity of pollutants involved.

140.2 All governmental agencies which lie wholly or partially within the jurisdiction of the NWCAA, including but not limited to city and county planning agencies which recommend or adopt land-use and zoning regulations including the issuance of variances such as conditional or special use permits for the construction of any facilities which they have reason to believe may emit air pollutants; shall notify the NWCAA of any such action or construction prior to recommending or adopting of such regulations or the issuance of any such permits.

PASSED: February 14, 1973 AMENDED: August 9, 1978, April 14, 1993

### **SECTION 150 - POLLUTANT DISCLOSURE - REPORTING BY AIR CONTAMINANT SOURCES**

150.1 Every person operating a registered air contaminant source with actual annual emissions of 25 tons or more of a single air pollutant or a source subject to the operating permit program shall file annually at a time determined by the NWCAA and on forms furnished by the NWCAA a report setting forth:

150.11 The nature of the enterprise.

150.12 A list of process materials which are potentially significant sources of emissions used in, and incidental to, its manufacturing processes, including by-products and waste products.

150.13 The estimated calendar year emissions of each criteria air pollutant, hazardous air pollutant and volatile organic compounds (VOC). Every person filing an annual emissions inventory shall retain at the facility the calculations and emission factors used to obtain the estimates.

150.14 Annual calendar year emission reports shall be submitted to the NWCAA by no later than April 15 of the following year (e.g., 2010 emission report is due April 15, 2011). If the emission report is not submitted by the required date and the emissions are used to determine operating permit fees as described in Section 322.4, potential to emit may be used to determine said fees.

150.2 Every person operating a registered source other than those identified in 150.1 may be required by the Control Officer to submit periodic emission reports.

150.3 Every person operating any source or sources which directly or indirectly emits or contributes air contaminants within the jurisdictional area of the NWCAA may be required to report to the Control Officer, at a time or times, selected by the Control Officer, such as production rates, sales or other data (including quantities of products used or any other information) as may be required to estimate the emissions from the various air contaminant sources.



Data will be held confidential under Section 114 if so requested by the owner or manager and such request meets the requirements of Section 114. Such sources include, but are not limited to, dealers in gaseous liquid or solid fossil fuels for public consumption in motor vehicles or for space heating purposes.

PASSED: February 14, 1973 AMENDED: September 8, 1993, December 8, 1993, November 12, 1999, November 8, 2007

## **SECTION 155 – STATE ENVIRONMENTAL POLICY ACT**

### 155.1 Authority

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

### 155.2 Purpose and Adoption by Reference.

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

- WAC 197-11-040: Definitions
  - 050: Lead Agency
  - 055: Timing of the SEPA Process
  - 060: Content of Environmental Review
  - 070: Limitations on Actions During SEPA Process
  - 080: Incomplete or Unavailable Information
  - 090: Supporting Documents
- WAC 197-11-100: Information Required of Applicants
  - 250: SEPA/Model Toxics Control Act Integration
  - 253: SEPA Lead Agency for MTCA Actions
  - 256: Preliminary Evaluation
  - 259: Determination of Nonsignificance for MTCA Remedial Action
  - 262: Determination of Significance and EIS for MTCA Remedial Action
  - 265: Early Scoping for MTCA Remedial Actions
  - 268: MTCA Interim Actions
- WAC 197-11-300: Purpose of This Part
  - 305: Categorical Exemptions
  - 310: Threshold Determination Required
  - 315: Environmental Checklist
  - 330: Threshold Determination Process
  - 335: Additional Information

- 340: Determination of Non-Significance (DNS)
- 350: Mitigated DNS
- 360: Determination of Significance (DS)/Initiation of Scoping
- 390: Effect of Threshold Determination
- WAC 197-11-400: Purpose of EIS
  - 402: General Requirements
  - 405: EIS Types
  - 406: EIS Timing
  - 408: Scoping
  - 410: Expanded Scoping
  - 420: EIS Preparation
  - 425: Style and Size
  - 430: Format
  - 435: Cover Letter or Memo
  - 440: EIS Contents
  - 442: Contents of EIS on Non-Project Proposals
  - 443: EIS Contents When Prior Non-Project EIS
  - 444: Elements of the Environment
  - 448: Relationship of EIS to Other Considerations
  - 450: Cost-Benefit Analysis
  - 455: Issuance of DEIS
  - 460: Issuance of FEIS
- WAC 197-11-500: Purpose of This Part
  - 502: Inviting Comment
  - 504: Availability and Cost of Environmental Documents
  - 508: SEPA Register
  - 510: Public Notice
  - 535: Public Hearings and Meetings
  - 545: Effect of No Comment
  - 550: Specificity of Comments
  - 560: FEIS Response to Comments
  - 570: Consulted Agency Costs to Assist Lead Agency
- WAC 197-11-600: When to Use Existing Environmental Documents
  - 610: Use of NEPA Documents
  - 620: Supplemental Environmental Impact Statement - Procedures
    - 625: Addenda – Procedures
    - 630: Adoption – Procedures
    - 635: Incorporation by Reference – Procedures
    - 640: Combining Documents
- WAC 197-11-650: Purpose of This Part.
  - 655: Implementation.
  - 660: Substantive Authority and Mitigation.
  - 680: Appeals.
- WAC 197-11-700: Definitions
  - 702: Act
  - 704: Action

- 706: Addendum
- 708: Adoption
- 710: Affected Tribe
- 712: Affecting
- 714: Agency
- 716: Applicant
- 718: Built Environment
- 720: Categorical Exemption
- 722: Consolidated Appeal
- 724: Consulted Agency
- 726: Cost-Benefit Analysis
- 728: County/City
- 730: Decision-Maker
- 732: Department
- 734: Determination of Non-Significance (DNS)
- 736: Determination of Significance (DS)
- 738: EIS
- 740: Environment
- 742: Environmental Checklist
- 744: Environmental Document
- 746: Environmental Review
- 750: Expanded Scoping
- 752: Impacts
- 754: Incorporation by Reference
- 756: Lands Covered by Water
- 758: Lead Agency
- 760: License
- 762: Local Agency
- 764: Major Action
- 766: Mitigated DNS
- 768: Mitigation
- 770: Natural Environment
- 772: NEPA
- 774: Non-Project
- 776: Phased Review
- 778: Preparation
- 780: Private Project
- 782: Probable
- 784: Proposal
- 786: Reasonable Alternative
- 788: Responsible Official
- 790: SEPA
- 792: Scope
- 793: Scoping
- 794: Significant
- 796: State Agency
- 797: Threshold Determination

- 799: Underlying Governmental Action
- WAC 197-11-800: Categorical Exemptions
  - 880: Emergencies
  - 890: Petitioning DOE to Change Exemptions
- WAC 197-11-900: Purpose of This Part
  - 902: Agency SEPA Policies
  - 904: Agency SEPA Procedures
  - 916: Application to Ongoing Actions
  - 920: Agencies with Environmental Expertise
  - 922: Lead Agency Rules
  - 924: Determining the Lead Agency
  - 926: Lead Agency for Governmental Proposals
  - 928: Lead Agency for Public and Private Proposals
  - 930: Lead Agency for Private Projects With One Agency With Jurisdiction
  - 932: Lead Agency for Private Projects Requiring Licenses From More Than One Agency, When One of the Agencies Is a County/City
  - 934: Lead Agency for Private Projects Requiring Licenses From A Local Agency, Not a City/County, and One or More Than One State Agency
  - 936: Lead Agency for Private Projects Requiring Licenses From More Than One State Agency
  - 938: Lead Agencies for Specific Proposals
  - 940: Transfer of Lead Agency Status to a State Agency
  - 942: Agreements on Lead Agency Status
  - 944: Agreements on Division of Lead Agency Duties
  - 946: DOE Resolution of Lead Agency Disputes
  - 948: Assumption of Lead Agency Status
- WAC 197-11-960: Environmental Checklist
  - 965: Adoption Notice
  - 970: Determination of Non-Significance (DNS)
  - 980: Determination of Significance and Scoping Notice (DS)
  - 985: Notice of Assumption of Lead Agency Status
  - 990: Notice of Action

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

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

### 155.3 Responsible Official Designation and Responsibilities

- (A) For all proposals for which NWCAA is the lead agency, the responsible official shall be the Control Officer of NWCAA or the NWCAA employee designated by the Control Officer.
- (B) For all proposals for which NWCAA is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to "NWCAA," the "lead agency," or "responsible official" by these policies and procedures.
- (C) NWCAA shall retain all documents required by these policies and procedures and make them available in accordance with applicable law.

#### 155.4 Lead Agency Determination and Responsibilities

- (A) When the NWCAA receives an application for or initiates a proposal that involves a nonexempt action, the NWCAA shall determine the lead agency for that proposal under WAC 197-11-050, 197-11-253, and 197-11-922 through 197-11-940; unless the lead agency has been previously determined or the NWCAA is aware that another agency is in the process of determining the lead agency. When the NWCAA is the lead agency for a proposal, the responsible official shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.
- (B) When NWCAA is not the lead agency for a proposal, it shall use and consider, as appropriate, the environmental documents of the lead agency in making decisions on the proposal. NWCAA shall not prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the Agency may conduct supplemental environmental review under WAC 197-11-600.
- (C) If NWCAA receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-253 or 197-11-922 through 197-11-940, it may object to the determination and take such action as authorized by the SEPA Rules.
- (D) NWCAA may make agreements as to lead agency status or shared lead agency duties for a proposal as described in WAC 197-11-942 and 197-11-944.
- (E) When making a lead agency determination for a private project, NWCAA shall require sufficient information from the applicant to identify which other agencies (if any) have jurisdiction over the proposal.

#### 155.5 Time Limits and Other Considerations Applicable to SEPA Rules

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

#### 155.6 Use of Exemptions

- (A) When NWCAA receives an application for a permit or, in the case of governmental proposals, NWCAA initiates the proposal, NWCAA shall determine whether the permit and/or the proposal is exempt. NWCAA's determination that a permit or proposal is exempt shall be final and not subject to administrative review. If a permit or proposal is exempt, none of the procedural requirements of these policies and procedures apply to the proposal. NWCAA shall not require completion of an environmental checklist for an exempt permit or proposal.
- (B) In determining whether or not a proposal is exempt, NWCAA shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, NWCAA shall determine the lead agency, even if the license application that triggers NWCAA's consideration is exempt.
- (C) If a proposal includes both exempt and nonexempt actions, NWCAA may authorize exempt actions prior to compliance with the procedural requirements of these policies and procedures, except that:
  - (1) NWCAA shall not give authorization for:
    - (a) Any nonexempt action;
    - (b) Any action that would have an adverse environmental impact; or
    - (c) Any action that would limit the choice of alternatives.
  - (2) NWCAA may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and
  - (3) NWCAA may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

#### 155.7 Environmental Checklist

- (A) A completed environmental checklist (or a copy) shall be filed at the same time as an application for a permit, license, certificate, or other

approval not specifically exempted in these policies and procedures; notwithstanding the preceding, a checklist is not needed if NWCAA and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The environmental checklist shall be in the form provided in WAC 197-11-960, except that Section B.2.a. Air, of the checklist shall state: "What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke, greenhouse gases) during construction and when the project is completed? If any, generally describe and give approximate quantities, if known." As used throughout these policies and procedures, environmental checklist means the environmental checklist required by these policies and procedures.

- (B) NWCAA shall use the environmental checklist to determine the lead agency and, if NWCAA is the lead agency, for determining the responsible official and for making the threshold determination.
- (C) For private proposals, NWCAA will require the applicant to complete the environmental checklist, providing assistance as necessary. For Agency proposals, NWCAA shall complete the environmental checklist. NWCAA may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs:
  - (1) NWCAA has technical information on a question or questions that is unavailable to the private applicant; or
  - (2) The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

#### 155.8 Mitigated DNS

- (A) As provided in these policies and procedures and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.
- (B) An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. "Early notice" means NWCAA's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal. The request must:
  - (1) Follow submission of a complete permit application and environmental checklist for a nonexempt proposal for which NWCAA is lead agency; and
  - (2) Precede NWCAA's actual threshold determination for the proposal.

- (C) The responsible official should respond to the request for early notice within 30 working days. The response shall:
  - (1) Be written;
  - (2) State whether NWCAA currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading NWCAA to consider a DS; and
  - (3) State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.
- (D) As much as possible, NWCAA should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.
- (E) When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, NWCAA shall base its threshold determination on the changed or clarified proposal and shall make the determination within 15 days of receiving the changed or clarified proposal:
  - (1) If NWCAA indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, NWCAA shall issue and circulate a DNS under WAC 197-11-340(2).
  - (2) If NWCAA indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, NWCAA shall make the threshold determination, issuing a DNS or DS as appropriate.
  - (3) The applicant's proposed mitigation measures (clarifications, changes, or conditions) must be in writing and must be specific.
  - (4) Mitigation measures that justify issuance of a mitigated DNS may be incorporated in the DNS by reference to NWCAA staff reports, studies, or other documents.
- (F) A mitigated DNS is issued under WAC 197-11-340(2), requiring a fourteen-day comment period and public notice.
- (G) Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by NWCAA.



- (H) If NWCAA's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, NWCAA should evaluate the threshold determination to ensure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).
- (I) NWCAA's early notice under NWCAA 155.8(C) above shall not be construed as determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind NWCAA to consider the clarifications or changes in its threshold determination.

#### 155.9 Preparation of EIS--Additional Considerations

- (A) Preparation of a draft and final EIS (DEIS and FEIS) and draft and final supplemental EIS (SEIS) is the responsibility of the responsible official. Before NWCAA issues an EIS, the responsible official shall be satisfied that it complies with these policies and procedures and Chapter 197-11 WAC.
- (B) The DEIS and FEIS or draft and final SEIS may be prepared by NWCAA, by outside consultants selected by NWCAA, or by such other person as NWCAA may so direct consistent with the SEPA Rules. The NWCAA retains sole authority to select persons or firms to author, co-author, provide special services, or otherwise participate in preparing required environmental documents. If the NWCAA requires an EIS for a proposal and determines that someone other than the NWCAA will prepare the EIS, the responsible official shall notify the applicant after completion of the threshold determination. The responsible official shall also notify the applicant of the NWCAA's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.
- (C) NWCAA may require an applicant to provide information NWCAA does not possess, including specific investigations or research. However, the applicant may not be required to supply information that is not required under these policies and procedures or that is being requested from another agency. (This does not apply to information NWCAA may request under other authority.) Additional information may be required as set forth in WAC 197-11-100.

#### 155.10 Additional Elements To Be Covered In An EIS

The following additional elements are part of the environment for the purpose of EIS content, but do not add to the criteria for threshold determination or perform any other function or purpose under these policies and procedures:

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

155.11 Public Notice

- (A) Whenever the NWCAA issues a DNS under WAC 197-11-340(2)(b) or a DS under WAC 197-11-360(3), the NWCAA shall give public notice as follows:
  - (1) If public notice is required for a nonexempt permit or decision document, the notice shall state whether a DS or DNS has been issued and when comments are due.
  - (2) If no public notice is required for the permit or approval, the NWCAA shall give notice of the DNS or DS by:
    - (a) Written or electronic (email) notice to public or private groups that have expressed interest in a certain proposal or in the type of proposal being considered, and
    - (b) Posting notice on the NWCAA website.
  - (3) Whenever the NWCAA issues a DS under WAC 197-11-360(3), the NWCAA shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.
- (B) Whenever the NWCAA issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:
  - (1) Indicating the availability of the DEIS in any public notice required for a nonexempt permit or decision document; and at least one of the following methods:
  - (2) Posting the property, for site-specific proposals;
  - (3) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;
  - (4) Notifying public or private groups that have expressed interest in a certain proposal or in the type of proposal being considered;
  - (5) Notifying the news media;
  - (6) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals;
  - (7) Publishing notice in NWCAA newsletters and/or sending notice to NWCAA mailing lists (general lists or specific lists for proposals or subject areas); and/or
  - (8) Posting notice on the NWCAA website.
- (C) Whenever possible, the NWCAA shall integrate the public notice required under these policies and procedures with existing notice

procedures for the NWCAA's nonexempt permit(s) or approval(s) required for the proposal.

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

155.12 Designation of Official to Perform Consulted Agency Responsibilities for NWCAA

- (A) The responsible official shall be responsible for the preparation of written comments for NWCAA in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.
- (B) The responsible official shall be responsible for the NWCAA's compliance with WAC 197-11-550 whenever the NWCAA is a consulted agency. The responsible official is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from the NWCAA. If the nature of the proposal is such that it involves significant impacts on NWCAA's facilities or property, or will require a significant amount of time to provide the information requested to the lead agency, NWCAA may request that the lead agency impose fees upon the applicant to cover the costs of NWCAA's SEPA compliance.

155.13 SEPA Substantive Authority

- (A) The policies and goals set forth in this ordinance are supplementary to those in NWCAA's existing authorities.
- (B) NWCAA may attach conditions to a permit or approval for a proposal so long as the NWCAA determines that:
  - (1) Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this ordinance; and
  - (2) Such conditions are in writing; and
  - (3) The mitigation measures included in such conditions are reasonable and capable of being accomplished; and
  - (4) NWCAA has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
  - (5) Such conditions are based on one or more policies in subsections (D) through (F) of this section and cited in the permit or other decision document.

- (C) The NWCAA may deny a permit or approval for a proposal on the basis of SEPA so long as the NWCAA determines that:
  - (1) The proposal would be likely to result in significant adverse environmental impacts identified in a final or supplemental EIS prepared pursuant to these policies and procedures; and
  - (2) Reasonable mitigation measures are insufficient to mitigate the identified impact.
  - (3) The denial is based on one or more policies identified in subsections (D) through (F) of this section and identified in writing in the decision document.
  
- (D) NWCAA designates and adopts by reference the following policies, plans, rules, and regulations as the potential bases for NWCAA's exercise of substantive authority under SEPA, pursuant to this section:
  - (1) NWCAA shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:
    - (a) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
    - (b) Ensure for all people of Washington, safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
    - (c) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
    - (d) Preserve important historic, cultural, and natural aspects of our national heritage;
    - (e) Maintain, wherever possible, an environment that supports diversity and variety of individual choice;
    - (f) Achieve a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities; and
    - (g) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.
  - (2) NWCAA recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

- (E) NWCAA adopts by reference the policies in the following laws and NWCAA resolutions, regulations, and plans:
  - (1) Federal and state Clean Air Acts, and regulations adopted thereunder.
  - (2) The Regulation of the Northwest Clean Air Agency
  - (3) Resolutions adopted by NWCAA Board of Directors.
  - (4) Maintenance plans.
  - (5) Washington State Implementation Plan.
- (F) NWCAA establishes the following additional policies:
  - (1) Air quality
    - (a) Policy Background
      - (i) Air pollution can be damaging to human health, plants and animals, visibility, aesthetics, and the overall quality of life.
      - (ii) NWCAA is responsible for monitoring air quality in the three-county area, setting standards, and regulating certain development activities with the objective of meeting all applicable air quality standards.
      - (iii) Federal, state, and regional regulations and programs cannot always anticipate or adequately mitigate adverse air quality impacts.
    - (b) Policies
      - (i) To minimize or prevent adverse air quality impacts.
      - (ii) To secure and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and to property, foster the comfort and convenience of its inhabitants, seek public participation in policy planning and implementation, promote the economic and social development of the area within our jurisdiction, and facilitate the enjoyment of the natural attractions of the Puget Sound area.
      - (iii) To eliminate emissions of ozone-depleting chloro-fluorocarbons, in the interests of national and global environmental protection; to consider energy efficiency and conservation to reduce greenhouse

gases and in addition, to recognize other existing relevant regulatory requirements.

- (iv) To reduce woodstove emissions by educating the public about the effects of woodstove emissions, other heating alternatives, and the desirability of achieving better emission performance and heating efficiency from woodstoves pursuant to standards adopted by State and Federal Agencies; and to encourage replacing uncertified woodstoves with cleaner sources of heat.
- (v) To reduce outdoor burning to the greatest extent practical.
- (vi) To develop and adopt strategies for effectively reducing or eliminating impacts from toxic air contaminants.
- (vii) To control volatile organic compound (VOC) emissions in order to meet National Ambient Air Quality Standard for ozone.
- (viii) If the responsible official makes a written finding that the applicable federal, state, and/or regional regulations did not anticipate or are inadequate to address the particular impact(s) of a project, the responsible official may condition or deny the proposal to mitigate its adverse impacts.

(2) Land Use

(a) Policy Background

- (i) Adverse land use impacts may result when a proposed project or land use policy includes uses that may be consistent with applicable zoning requirements but inconsistent with air quality objectives or regulations.
- (ii) Adverse cumulative impacts may result when particular land uses permitted under the zoning code occur in an area to such an extent that they expose sensitive populations to air quality related health and environmental adverse impacts.

(b) Policies

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

- (ii) To reduce regional air pollution emissions associated with land uses by promoting clean alternative forms of domestic use fuels, including natural gas, in new single and multifamily housing developments within urban growth areas. In addition, to discourage wood as a source of heat for residential development in low-lying areas susceptible to pollution accumulations.
  - (iii) To encourage municipal curbside solid and compostable waste collection services at reasonable costs.
- (3) Transportation
  - (a) Policy Background
    - (i) Excessive traffic can adversely affect regional air quality.
    - (ii) Substantial traffic volumes associated with major projects may adversely impact air quality in surrounding areas.
  - (b) Policies
    - (i) To minimize or prevent adverse traffic impacts that would undermine the air quality of a neighborhood or surrounding areas.
    - (ii) To promote transportation demand and systems management actions designed to reduce vehicle emissions by reducing the use of single occupancy vehicles, reducing traffic congestion, and increasing public transportation services.
    - (iii) To encourage integrating land use and transportation planning.
    - (iv) To emphasize the importance of air quality conformity determinations required for proposed transportation plans, programs, and projects.
    - (v) To pursue and support alternative and clean fuels projects and programs.
    - (vi) To promote and support land use plans and projects designed to reduce vehicle emissions by reducing the use of single occupant vehicles, number of vehicle miles traveled, and traffic congestion; and supporting the use of public transportation.

- (vii) In determining the necessary air quality impact mitigation, the responsible official will examine the mitigation proposed by the local jurisdiction.
- (4) Cumulative Effects
  - (a) The analysis of cumulative effects shall include a reasonable assessment of:
    - (i) The capacity of natural systems, such as air, water, light, and land, to absorb the direct and reasonably anticipated indirect impacts of the proposal, and
    - (ii) The demand upon facilities, services, and natural systems of present, simultaneous, and known future development in the area of the project or action.
  - (b) An action or project may be conditioned or denied to lessen or eliminate its cumulative effects on the environment:
    - (i) When considered together with prior, simultaneous, or induced future development; or
    - (ii) When, taking into account known future development under established zoning or other regulations, it is determined that a project will use more than its share of present and planned facilities, services, and natural systems.

#### 155.14 Administrative Appeals

- (A) NWCAA hereby eliminates, pursuant to WAC 197-11-680(2), appeals to its legislative body of determinations relating to SEPA; and
- (B) NWCAA hereby elects, pursuant to WAC 197-11-680(3), not to provide for administrative appeals of determinations relating to SEPA.

#### 155.15 Notice/Statute of Limitations

- (A) NWCAA, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.2 1C.080 for any action.
- (B) The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the NWCAA, the city clerk or county auditor, applicant, or proponent pursuant to RCW 43.21C.080.

#### 155.16 Fees

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



- (1) Threshold Determination - NWCAA may contract directly with a consultant for preparation of an environmental checklist or other information needed for NWCAA to make a threshold determination, and may bill such costs and expenses directly to the applicant. NWCAA may require the applicant to post bond or otherwise ensure payment of such costs and expenses. In addition, NWCAA may charge a calculated fee from any applicant to cover the costs incurred by NWCAA in preparing an environmental checklist or other information needed for NWCAA to make a threshold determination.
- (2) Environmental Impact Statement
  - (a) When NWCAA is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of NWCAA, NWCAA may charge and collect a reasonable fee from any applicant to cover costs incurred by NWCAA in preparing the EIS.
  - (b) The responsible official shall advise the applicant(s) of the projected costs for the EIS prior to actual preparation; the applicant shall post bond or otherwise ensure payment of such costs.
  - (c) The responsible official may determine that NWCAA will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than NWCAA and may bill such costs and expenses directly to the applicant. NWCAA may require the applicant to post bond or otherwise ensure payment of such costs.
  - (d) If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under NWCAA 155.16(A)(1) and (2) of these policies and procedures that remain after incurred costs are paid.
  - (e) NWCAA may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of these policies and procedures relating to the applicant's proposal.
  - (f) NWCAA shall not collect a fee for performing its duties as a consulted agency, except as provided in WAC 197-11-570.
  - (g) NWCAA may charge any person for copies of any document prepared under this ordinance, and for mailing the document, in a manner provided by chapter 42.56 RCW.

155.17 Severability

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

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

## SECTION 200 - DEFINITIONS

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

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

- (A) In general, the actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal stationary source operation. The NWCAA shall allow the use of a different time period upon a determination by the NWCAA that it is more representative of normal stationary source operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.
- (B) The NWCAA may presume that stationary source-specific allowable emissions for the unit are equivalent to the actual emissions of the emissions unit.
- (C) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the emissions unit on that date.

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

AIR POLLUTION - The presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant, or animal life, or property, or which unreasonably interfere with enjoyment of life and property. For the purposes of the NWCAA Regulation, air pollution shall not include air contaminants emitted in compliance with chapter 17.21 RCW, the Washington Pesticide Application Act, which regulates the application and control of the use of various pesticides.

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

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

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

- (B) Any applicable SIP emissions limitation including those with a future compliance date; or
- (C) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

AMBIENT AIR - The surrounding outside air.

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

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

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

BEGIN ACTUAL CONSTRUCTION - In general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipe work, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

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

BOARD - Board of Directors of the NWCAA.

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

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

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

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

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

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

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

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

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

CONTROL FACILITY - Includes any treatment works, control devices and disposal systems, machinery equipment, structures, property or any part of accessories thereof, installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste which, if released to the outdoor atmosphere, could cause air pollution.

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

CRITERIA POLLUTANT - A pollutant for which there is established a National Ambient Air Quality Standard at 40 CFR Part 50. The criteria pollutants are carbon monoxide (CO), particulate matter, ozone (O<sub>3</sub>), sulfur dioxide (SO<sub>2</sub>), lead (Pb), and nitrogen dioxide (NO<sub>2</sub>).

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

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

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

ECOLOGY - Washington State Department of Ecology (WDOE).

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

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

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

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

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

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

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

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

FEDERALLY ENFORCEABLE - All limitations and conditions which are enforceable by EPA, including those requirements developed under 40 CFR Parts 60, 61, 62, and 63, requirements within the Washington SIP, requirements within any permit established under 40 CFR 52.21 or order of approval under a SIP-approved new source review regulation, or any voluntary limits on emissions pursuant to WAC 173-400-091.

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

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

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

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

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

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

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

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

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

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

INSTALLATION - The placement, assemblage, or construction of equipment or control equipment at the premises where the equipment or control equipment will be used, and includes all preparatory work at such premises.

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

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

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

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

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

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

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

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

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

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

NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) – An ambient air quality standard set by EPA at 40 CFR Part 50 and includes standards for carbon monoxide (CO), particulate matter, ozone (O<sub>3</sub>), sulfur dioxide (SO<sub>2</sub>), lead (Pb), and nitrogen dioxide (NO<sub>2</sub>).

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

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



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

NEW SOURCE - means one or more of the following:

- (A) The construction or modification of a stationary source that increases the amount of any air contaminant emitted by such stationary source or that results in the emission of any air contaminant not previously emitted
- (B) The restart of a stationary source after permanent shutdown
- (C) Any other project that constitutes a new stationary source under the Federal Clean Air Act

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

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

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

- (1) In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers); or
- (2) In or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or
- (3) That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

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

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

- (2) The engine is regulated by a New Source Performance Standard (NSPS) promulgated under section 111 of the Federal Clean Air Act; or
- (3) The engine otherwise included in (A)(3) of this definition remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at that single location approximately three months (or more) each year. This paragraph does not apply to an engine after the engine is removed from the location.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PM<sub>2.5</sub> EMISSIONS - Finely divided solid or liquid material, including condensable particulate matter, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in 40 CFR Part 51 or by a test method specified in the SIP. PM<sub>2.5</sub> emissions are also known as primary PM<sub>2.5</sub>, direct PM<sub>2.5</sub>, total PM<sub>2.5</sub>, or combined filterable PM<sub>2.5</sub> and condensable PM. These solid

particles are emitted directly from an air emissions source or activity, or are the gaseous emissions or liquid droplets from an air emissions source or activity that condense to form PM at ambient temperatures.

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

PM<sub>10</sub> EMISSIONS - Finely divided solid or liquid material, including condensible particulate matter, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in Appendix M of 40 CFR Part 51 or by a test method specified in the SIP.

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

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

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

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

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

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

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

RACT requirements for any stationary source or source category shall be adopted only after notice and opportunity for comment are afforded.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (A) Where the tank is filled from the top, the end of the discharge pipe or nozzle must be totally submerged when the liquid level is 6 inches from the bottom of the tank, or
- (B) Where the tank is filled from the side, the discharge pipe or nozzle must be totally submerged when the liquid level is 18 inches from the bottom of the tank.

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

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

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

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

TEMPORARY SOURCE – An emissions unit that remains or will remain at one location for less than 12 consecutive months. A location is any single site at a building, structure, facility, or installation. A nonroad engine is not considered a temporary source.

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

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

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

TOXIC AIR POLLUTANT (TAP) or TOXIC AIR CONTAMINANT - Any toxic air pollutant listed in WAC 173-460-150. The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.

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

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

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

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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY - Referred to as EPA.

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

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

VOLATILE ORGANIC COMPOUND (VOC) - Any carbon compound that participates in atmospheric photochemical reactions as defined in WAC 173-400-030(95).

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

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

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

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



## **SECTION 300 – NEW SOURCE REVIEW**

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

- (1) Emissions units that are categorically exempt under NWCAA 300.3.
  - (2) Emissions units that are exempt under NWCAA 300.4.
  - (3) Any temporary sources operating under NWCAA 300.17.
  - (4) Any emissions unit covered under a General Order of Approval and operating in accordance with NWCAA 300.16.
- (B) New source review of a modification is limited to the emissions unit or units proposed to be added to or modified at an existing stationary source and the air contaminants whose emissions would increase above the emission thresholds in NWCAA 300.4 as a result of the modification.
- (C) New source review is required for an increase in a plant-wide cap or an emissions-unit-specific emission limit.
- (D) The Control Officer may require that a new source or modification, that would otherwise be exempt under this section, submit a Notice of Construction application and be issued an Order of Approval as specified in this section. The Control Officer may also require that individual pollutant emission increases that would otherwise be exempt under this section be included in the Order of Approval review. This discretionary determination will be based on the nature of air pollution emissions from the stationary source and its potential effect on health, economic and social factors, or physical effects on property. Upon request, the proponent shall submit to the Control Officer appropriate information as necessary to make this determination.

300.2 In lieu of this section, any new major stationary source or major modification located in an attainment or unclassifiable area as defined in WAC 173-400-030 shall be processed in accordance with the requirements of WAC 173-400-113 and WAC 173-400-700 through 173-400-750, as applicable, for the pollutant for which the project is major. Additionally, any new major stationary source or major modification located in a nonattainment area as defined in WAC 173-400-030 shall be processed in accordance with the requirements of WAC 173-400-112 and WAC 173-400-800 through 173-400-860, as applicable, for the pollutant and for precursors of the pollutant for which the area is in nonattainment.

300.3 Categorical Exemptions from New Source Review

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

(A) Maintenance/construction:

- (1) Cleaning and sweeping of streets and paved surfaces
- (2) Concrete application, and installation
- (3) Dredging wet spoils handling and placement
- (4) Paving application and maintenance, excluding asphalt plants
- (5) Plant maintenance and upkeep activities (grounds keeping, general repairs, routine house keeping, architectural or maintenance coatings to stationary structures, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.)
- (6) Plumbing installation, plumbing protective coating application and maintenance activities
- (7) Roofing application and maintenance
- (8) Insulation application and maintenance, excluding products for resale
- (9) Janitorial services and consumer use of janitorial products

(B) Storage tanks:

- (1) Lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils
- (2) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation
- (3) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions
- (4) Process and white water storage tanks
- (5) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity
- (6) Operation, loading, and unloading of storage tanks less than or equal to 1,100 gallon capacity, with lids or other appropriate closure, that store materials that do not contain Toxic Air

Pollutants, as defined in chapter 173-460 WAC, or that have a maximum vapor pressure of 550 mm mercury at 21° C

- (7) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons
  - (8) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids with no VOC content
- (C) New or modified fuel burning equipment with a heat input capacity (higher heating value) less than all of the following:
- (1) 500,000 Btu/hr coal or other solid fuels with less than or equal to 0.5% sulfur
  - (2) 500,000 Btu/hr used oil, per the requirements of RCW 70.94.610
  - (3) 400,000 Btu/hr wood
  - (4) 1,000,000 Btu/hr gasoline, kerosene, #1 or #2 fuel oil and with less than or equal to 0.05% sulfur
  - (5) 10,000,000 Btu/hr natural gas, propane, or LPG. This includes combustion units that have natural gas as a primary fuel source and ultra-low sulfur diesel (less than 15 ppm by weight sulfur) as a secondary fuel source that is combusted only during testing or periods of natural gas curtailment beyond the control of the source.
- (D) Material handling:
- (1) Continuous digester chip feeders
  - (2) Grain elevators not licensed as warehouses or dealers by either the Washington State Department of Agriculture or the U.S. Department of Agriculture
  - (3) Storage and handling of water based lubricants for metal working where organic content of the lubricant is less than or equal to 10%
  - (4) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallon capacity with lids or other appropriate closure. The high boiling point organic material shall not have an atmospheric boiling point of less than 150°C or a vapor pressure more than 5 mm mercury at 21°C.
- (E) Water treatment:

- (1) Septic sewer systems, not including active wastewater treatment facilities
  - (2) NPDES permitted ponds and lagoons used solely for the purpose of settling suspended solids and skimming of oil and grease
  - (3) De-aeration (oxygen scavenging) of water where Toxic Air Pollutants as defined in chapter 173-460 WAC are not emitted
  - (4) Process water filtration system and demineralizer vents
  - (5) Sewer manholes, junction boxes, sumps, and lift stations associated with wastewater treatment systems
  - (6) Demineralizer tanks
  - (7) Alum tanks
  - (8) Clean water condensate tanks
- (F) Laboratory testing and quality assurance/control testing equipment, including fume hoods, used exclusively for chemical and physical analysis, teaching, or experimentation, used specifically in achieving the purpose of the analysis, test, or teaching activity. Non-production bench scale research equipment is also included.
- (G) Monitoring/quality assurance/testing:
- (1) Equipment and instrumentation used for quality control/assurance or inspection purpose
  - (2) Hydraulic and hydrostatic testing equipment
  - (3) Sample gathering, preparation, and management
  - (4) Vents from continuous emission monitors and other analyzers
- (H) Dry Cleaning: Unvented, dry-to-dry, dry-cleaning equipment that is equipped with refrigerated condensers and carbon absorption to recover the cleaning solvent
- (I) Emergency Stationary Internal Combustion Engines (ICE): Any stationary internal combustion engine whose operation is limited to emergency situations and required testing and maintenance, and operates in these capacities for less than 500 hours a year. Examples include stationary ICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is interrupted, or stationary ICE used to pump water in the case of fire or flood, etc. Stationary ICE used to supply power to an electric grid or that supply power as part of

a financial arrangement with another entity are not considered to be emergency engines.

(J) Miscellaneous:

- (1) Single-family residences and duplexes
- (2) Plastic pipe welding
- (3) Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting
- (4) Comfort air conditioning
- (5) Flares used to indicate danger to the public
- (6) Natural and forced air vents and stacks for bathroom/toilet activities
- (7) Personal care activities
- (8) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires
- (9) Tobacco smoking rooms and areas
- (10) Noncommercial smokehouses
- (11) Blacksmith forges for single forges
- (12) Vehicle maintenance activities, not including vehicle surface coating
- (13) Vehicle or equipment washing
- (14) Wax application
- (15) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment
- (16) Ozone generators and ozonation equipment
- (17) Solar simulators
- (18) Ultraviolet curing processes, to the extent that Toxic Air Pollutant gases as defined in chapter 173-460 WAC are not emitted
- (19) Electrical circuit breakers, transformers, or switching equipment installation or operation
- (20) Pulse capacitors

- (21) Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives, excluding pneumatic conveying
- (22) Fire suppression equipment
- (23) Recovery boiler blow-down tank
- (24) Screw press vents
- (25) Drop hammers or hydraulic presses for forging or metal working
- (26) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight
- (27) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities
- (28) Solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm mercury at 21°C not emitting Toxic Air Pollutants as defined in chapter 173-460 WAC
- (29) Surface coating and dip coating operations using materials containing less than or equal to 1% by weight VOC and 1% by weight Toxic Air Pollutants as defined in chapter 173-460 WAC
- (30) Cleaning and stripping activities and equipment using solutions containing less than or equal to 1% by weight VOC and 1% by weight Toxic Air Pollutants as defined in chapter 173-460 WAC. Acid solutions used on metallic substances are not exempt
- (31) Gasoline dispensing facilities subject to chapter 173-491 WAC are exempt from Toxic Air Pollutant analysis pursuant to chapter 173-460 WAC

#### 300.4 Emissions Threshold Exemptions from New Source Review

- (A) Construction of a new emissions unit that has an uncontrolled potential to emit emission rate below all of the threshold levels listed in the table contained in NWCAA 300.4(D) is exempt from new source review.
- (B) A modification to an existing emissions unit that increases the unit's actual emissions by less than all of the threshold levels listed in the table contained in NWCAA 300.4(D) is exempt from new source review.
- (C) Greenhouse gas emissions are exempt from new source review under this section except to the extent required under WAC 173-400-720, Prevention of Significant Deterioration. The owner or operator of a source or emissions unit may request that the NWCAA issue an Order

to impose emission limits and/or operation limitations for greenhouse gas emissions.

(D) Exemption threshold levels:

POLLUTANT THRESHOLD LEVEL (ton per year)

- (1) Total Suspended Particulates: 1.25
- (2) PM<sub>10</sub>: 0.75
- (3) PM<sub>2.5</sub>: 0.5
- (4) Sulfur Dioxide: 2.0
- (5) Nitrogen Oxides: 2.0
- (6) Volatile Organic Compounds, total: 2.0
- (7) Carbon Monoxide: 5.0
- (8) Lead: 0.005
- (9) Ozone Depleting Substances, total: 1.0
- (10) Toxic Air Pollutants: The small quantity emission rate (SQER) specified for each TAP in WAC 173-460-150

300.7 Notice of Construction – Submittal Requirements

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

300.8 Notice of Construction - Completeness Determination.

- (A) Within 30 days after receiving a Notice of Construction application, the NWCAA shall either notify the applicant in writing that the application is complete or notify the applicant in writing of the additional information necessary to complete the application.
- (B) A complete application contains all the information necessary for processing the application. At a minimum, the application shall include information on the nature and amounts of emissions to be emitted by the proposed new source or increased as part of a modification, as well as the location, design, construction, and operation of the new source as needed to enable the NWCAA to determine that the construction or modification will meet the applicable requirements. Designating an application complete for purposes of permit processing does not preclude the NWCAA from requesting or accepting additional information.

- (C) An application is not complete until the State Environmental Policy Act (SEPA) has been addressed under chapter 197-11 WAC and NWCAA Section 155.
- (D) An application is not complete until the new source review fee specified in NWCAA 324.2 has been paid.

300.9 Notice of Construction – Final Determination

- (A) Within 60 days after receipt of a complete Notice of Construction application, the NWCAA shall either issue a final decision on the application or initiate public notice under NWCAA Section 305 as applicable on a preliminary decision, followed as promptly as practicable by a final decision.
- (B) An Order of Approval cannot be issued for the Notice of Construction application until the following criteria are met for those proposed emissions units and pollutants that triggered new source review, as applicable:
  - (1) Comply with all applicable New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), National Emission Standards for Hazardous Air Pollutants for source categories (NESHAP), emission standards adopted under chapter 70.94 RCW and all applicable NWCAA emission standards.
  - (2) Employ Best Available Control Technology (BACT).
  - (3) Allowable emissions will not cause or contribute to a violation of any ambient air quality standard. In addition, if located in a nonattainment area, allowable emissions will not violate the requirements for reasonable further progress established by the State Implementation Plan (SIP). If NWCAA has reason to be concerned that the construction or modification would cause or contribute to a violation of a NAAQS, NWCAA may require modeling using the guideline models and procedures of Appendix W of 40 CFR Part 51 as referenced in NWCAA 104.2. Written approval from the EPA must be obtained for any modification to or substitution for a guideline model.
  - (4) Comply with the applicable requirements of NWCAA Section 305.
  - (5) Comply with the applicable requirements of WAC 173-400-200 and 173-400-205.
  - (6) All fees required under NWCAA 324.2 have been paid.



- (C) In addition to the requirements of NWCAA 300.9(B), an Order of Approval cannot be issued until the new project meets the Toxic Air Pollutant requirements of WAC 173-400-110(2)(d).
- (D) A person seeking approval to construct a new source or modification that requires an operating permit may elect to integrate review of the operating permit application or amendment required under chapter 173-401 WAC and the Notice of Construction application required by this section. A Notice of Construction application designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines in chapter 173-401 WAC and must comply with NWCAA Section 305.
- (E) Every final determination on a Notice of Construction application shall be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the NWCAA.

#### 300.10 Order of Approval - Appeals

- (A) The issuance of an Order of Approval, any conditions contained in an Order of Approval, or the denial of a Notice of Construction application may be appealed to the pollution control hearings board as provided in chapter 43.21B RCW.
- (B) The NWCAA shall promptly mail copies of each Order approving or denying a Notice of Construction application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising parties of their rights of appeal to the pollution control hearings board.

#### 300.11 Order of Approval - Time Limitations

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

300.12 Order of Approval - Revision

- (A) The owner or operator may request a revision to an Order of Approval and the NWCAA may approve the request provided that the revision:
  - (1) Will not cause the source to exceed an emissions standard set by regulation or rule;
  - (2) Will not result in an exceedance of any ambient air quality standard;
  - (3) Will not adversely impact the ability to determine compliance with an emissions standard;
  - (4) Will continue to require Best Available Control Technology (BACT), Lowest Achievable Emission Rate (LAER), and Toxic Air Pollutant Best Available Control Technology (T-BACT), as applicable, for each new source or modification approved by the original Order of Approval (BACT and T-BACT as defined at the time of original approval); and
  - (5) Will meet the requirements of NWCAA 300.7 through 300.13 and NWCAA Section 305, as applicable.
- (B) A revision under NWCAA 300.12 only addresses projects where the emissions increase from each emissions unit qualifies as exempt under NWCAA 300.4.
- (C) Each Order of Approval revision request shall be submitted and will be processed as a Notice of Construction application. The application shall be submitted with the appropriate new source review fee specified in NWCAA 324.2.

300.13 Order of Approval – Requirements to Comply

Owners and operators of a source or emissions unit shall:

- (A) Comply with the conditions in the Order of Approval or General Order of Approval, as applicable.
- (B) Install and operate in accordance with the information submitted in the Notice of Construction application or application for coverage under a General Order of Approval.

300.14 Notice of Construction Application Inapplicability Determination

An owner or operator may submit a written request to the NWCAA to obtain a written determination that a project is exempt from new source review under NWCAA 300.1 or from replacement or substantial alteration of control technology under NWCAA 300.25. The request shall include a summary of the project, a narrative describing

why the project should be exempt from applicability, and the appropriate fee in accordance with NWCAA 324.2.

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

### 300.16 General Order of Approval

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

- (A) The NWCAA may issue a General Order of Approval applicable to a specific source type or emissions unit. A General Order of Approval shall identify criteria by which a source or emissions unit may qualify for coverage under the General Order of Approval and shall include terms and conditions under which the owner or operator agrees to install and/or operate the covered source or emissions unit.
  - (1) These terms and conditions shall include as appropriate:
    - (a) Emissions limitations and/or control requirements based on Best Available Control Technology (BACT) and/or BACT for Toxic Air Pollutants (T-BACT);
    - (b) Operational restrictions, such as:
      - (i) Criteria related to the physical size of the source or emissions unit(s) covered;
      - (ii) Criteria related to raw materials and fuels used;
      - (iii) Criteria related to allowed or prohibited locations; and
      - (iv) Other similar criteria as determined by the NWCAA;
    - (c) Monitoring, reporting, and recordkeeping requirements to ensure compliance with the applicable emission limits and/or control requirements;
    - (d) Initial and periodic emission testing requirements;
    - (e) Compliance with WAC 173-400-112, NWCAA 300.9(B), and 300.9(C), as applicable;
    - (f) Compliance with 40 CFR Parts 60, 61, 62, and 63; emission standards adopted under chapter 70.94 RCW; and all applicable NWCAA emission standards; and

- (g) The application and approval process to obtain coverage under the specific General Order of Approval.
  - (2) The original issuance and any revisions to a General Order of Approval must comply with NWCAA Section 305, as applicable.
  - (3) The NWCAA may review and revise a General Order of Approval at any time. Revisions to General Orders of Approval shall only take effect prospectively.
- (B) Application for coverage under a General Order of Approval.
- (1) In lieu of applying for an individual Order of Approval under NWCAA 300.7, an owner or operator of a source or emissions unit may apply for and receive coverage from the NWCAA under a General Order of Approval if:
    - (a) The owner or operator of the source or emissions unit applies for coverage under a General Order of Approval in accordance with NWCAA 300.16 and any conditions of the specific General Order of Approval related to application for and the granting of coverage;
    - (b) The source or emissions unit meets all the applicability qualifications listed in the requested General Order of Approval;
    - (c) The requested source or emissions unit is not part of a new major stationary source or major modification subject to the requirements of WAC 173-400-113(3) and (4), WAC 173-400-700 through 173-400-750, or 173-400-800 through 173-400-860; and
    - (d) The requested source or emissions unit does not trigger applicability of the Air Operating Permit program under NWCAA Section 322, or trigger a required modification of an existing Air Operating Permit.
  - (2) Owners or operators of sources or emissions units applying for coverage under a General Order of Approval shall do so using the forms provided by the NWCAA and include the application fee as specified in NWCAA 324.2. The application must include all information necessary to determine qualification for, and to assure compliance with, a General Order of Approval.
  - (3) An application is incomplete until the NWCAA has received all required fees.
  - (4) The owner or operator of the proposed source or emissions unit that qualifies for coverage under a General Order of Approval shall not begin actual construction of the proposed source or

emissions unit until written confirmation of coverage from the NWCAA has been received in accordance with the procedures established in NWCAA 300.16(C).

- (C) Each General Order of Approval shall include a section on how an applicant is to request coverage and how the NWCAA will grant coverage.
  - (1) Within 30 days after receipt of an application for coverage under a General Order of Approval, the NWCAA shall either provide written confirmation of coverage under the General Order of Approval or notify the applicant in writing that the application is incomplete, inaccurate, or does not qualify for coverage under the General Order of Approval. If an application is incomplete, the NWCAA shall notify the applicant of the information needed to complete the application. If an application does not qualify for coverage under the General Order of Approval, the NWCAA shall notify the applicant of the reasons why the application does not qualify. Coverage under a General Order of Approval is effective as of the date of issuance of the written confirmation of coverage under the General Order.
  - (2) Failure of an owner or operator to obtain written confirmation of coverage under NWCAA 300.16 prior to beginning actual construction is considered failure to obtain an Order of Approval pursuant to NWCAA 300.1.
- (D) An owner or operator who has received confirmation of coverage under a specific General Order of Approval may later request to be excluded from coverage under that General Order of Approval by applying to the NWCAA for an individual Order of Approval under NWCAA 300.7 or for coverage under another General Order of Approval. If the NWCAA issues an individual Order of Approval or confirms coverage under a different General Order of Approval, coverage under the original General Order of Approval is automatically terminated, effective on the effective date of the individual Order of Approval or confirmation of coverage under the new General Order of Approval.
- (E) The Control Officer may require that a new source or modification, that would otherwise be covered under a General Order of Approval, submit a Notice of Construction application and be issued an individual Order of Approval under NWCAA 300.7 through 300.13. This discretionary determination shall be based on the nature of air pollution emissions from the source and its potential effect on health, economic and social factors, or physical effects on property. Upon request, the owner or operator shall submit to the Control Officer, appropriate information as necessary to make this determination.

### 300.17 Temporary Sources

- (A) This section applies to temporary sources that do not qualify for exemption under NWCAA 300.3 or 300.4.
- (B) Temporary sources shall submit a Notice of Construction application and an Order of Approval must be issued by the NWCAA in accordance with NWCAA 300.7 through 300.13 prior to beginning operation within the NWCAA jurisdiction except as provided under NWCAA 300.17(E).
- (C) If a temporary source is locating in a nonattainment area within the NWCAA jurisdiction and if the source emits the pollutants or pollutant precursors for which the area is classified as nonattainment, the source must obtain an Order of Approval from the NWCAA regardless of the exemption in NWCAA 300.17(E).
- (D) If a temporary source is a major stationary source then it must also comply with WAC 173-400-700 through 173-400-750 as applicable.
- (E) Except as provided in 300.17(C) and (D), temporary sources are allowed to operate within the NWCAA jurisdiction without obtaining an Order of Approval from the NWCAA provided that:
  - (1) A permitting authority in Washington State issued a Notice of Construction Order of Approval for the temporary source after July 1, 2010 identifying the emissions unit as a "portable" or "temporary" source.
  - (2) Operation within the NWCAA jurisdiction under this provision is limited to a single 12 consecutive month period commencing with initial startup within the NWCAA jurisdiction. For operation within the NWCAA jurisdiction after this initial 12 consecutive month period, the owner or operator must obtain an Order of Approval from the NWCAA in accordance with NWCAA 300.17(B).
- (F) The owner or operator shall notify the NWCAA of the intent to relocate into or within the NWCAA jurisdiction at least 15 calendar days prior to beginning operation at a different location. Notification is not required for relocation within the same major source. The notification shall include a copy of the applicable temporary source Order of Approval and estimated start and end dates at the new location. The owner or operator shall keep a record of the date of initial startup within the NWCAA jurisdiction along with durations and locations of operation.
- (G) The first time the owner or operator locates the temporary source within the NWCAA jurisdiction, the initial relocation notice shall include the appropriate annual registered source fee specified in NWCAA 324.1. The owner or operator shall pay an annual registered source fee for each calendar year during which the temporary source operates within the NWCAA jurisdiction.

- (H) The owner or operator shall submit the emission inventory required under NWCAA Section 150 to the NWCAA if the temporary source operated in the NWCAA jurisdiction during the preceding calendar year. The data must be sufficient in detail to enable the NWCAA to determine the emissions within its jurisdiction and the yearly aggregate.
- (I) To change the conditions in an Order of Approval issued by a permitting authority other than the NWCAA while operating in the NWCAA jurisdiction, the owner or operator must obtain an Order of Approval from the NWCAA in accordance with NWCAA 300.7 through 300.13.
- (J) Prior to modifying a temporary source while operating within the NWCAA jurisdiction under a non-NWCAA Order of Approval, the owner or operator must obtain an Order of Approval from the NWCAA in accordance with NWCAA 300.7 through 300.13.
- (K) The NWCAA has authority to enforce the conditions of the Order of Approval that authorizes the temporary source operation, regardless of which permitting authority issued the Order of Approval. The owner or operator shall operate the temporary source in compliance with the conditions set forth in the Order of Approval and any other applicable requirements. Any reports required by the Order of Approval shall be submitted to the NWCAA.
- (L) Temporary sources relying upon an Order of Approval issued by a permitting authority other than the NWCAA may be required to obtain an Order of Approval from the NWCAA in accordance with NWCAA 300.17(B) at the discretion of the Control Officer based on the source type, emission quantity, or suitability of the non-NWCAA Order of Approval requirements.

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

- (A) Any person proposing to replace or substantially alter the emission control technology installed on an existing stationary source or emissions unit shall file a Notice of Construction application with the NWCAA. Replacement or substantial alteration of control technology does not include routine maintenance, repair, or similar parts replacement.
- (B) For emissions units and associated pollutants not otherwise reviewable under NWCAA Section 300, the NWCAA may:
  - (1) Require that the owner or operator employ RACT for the affected emissions unit;
  - (2) Prescribe reasonable operation and maintenance conditions for the control equipment; and

- (3) Prescribe other requirements as authorized by chapter 70.94 RCW.
- (C) Within 30 days after receiving a Notice of Construction application under this subsection, the NWCAA shall either notify the applicant in writing that the application is complete or notify the applicant in writing of the additional information necessary to complete the application. Within 30 days of receipt of a complete Notice of Construction application under this section the NWCAA shall either issue an Order of Approval or a proposed RACT determination for the proposed project.
- (D) An owner or operator shall not begin actual construction on a project subject to review under this section until the NWCAA issues a final Order of Approval. However, any Notice of Construction application filed under this section shall be deemed to be approved without conditions if the NWCAA takes no action within 30 days of receipt of a complete Notice of Construction application.
- (E) Approval to replace or substantially alter emission control technology shall become invalid if the owner or operator has not begun actual construction within 18 months of approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The NWCAA may extend the 18-month approval period upon a satisfactory showing that an extension is justified. No single extension of time shall be longer than 18 months. The cumulative period between initial permit issuance and the end of any approved time extensions shall not exceed 54 months. This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must begin actual construction within 18 months of the approved commencement date.

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

### **SECTION 303 – WORK DONE WITHOUT AN APPROVAL**

When actual construction has begun on a new source or modification for which a Notice of Construction is required and a final Order of Approval has not been issued, the Control Officer or designee may conduct an investigation as part of the Notice of Construction application review. In such a case, an investigation fee, in addition to the fees of NWCAA 324.2, may be assessed in an amount up to 3 times the fees of NWCAA 324.2. Payment of the fees does not relieve any person from the requirement to comply with any air regulation nor from any penalties for failure to comply.



PASSED: January 8, 1969 AMENDED: February 14, 1973, August 9, 1978, November 12, 1998, April 11, 2019

## **SECTION 304 – NONROAD ENGINES**

304.1 This section applies to any nonroad engine as defined in NWCAA Section 200, except for:

- (A) Any nonroad engine that is:
  - (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; or
  - (2) In or on a piece of equipment that is intended to be propelled while performing its function.
- (B) Nonroad engines being stored in work centers, garages, or engine pool sites prior to being dispatched to the field for use and that do not provide back-up power at the work center, garage, or engine pool. Such engines may be operated at these facilities only for the purpose of engine maintenance, testing, and repair.

304.2 Nonroad engines are not subject to:

- (A) New source review.
- (B) Control technology determinations.
- (C) Emission limits set by the state implementation plan (SIP).
- (D) Chapter 173-460 WAC.

304.3 All nonroad engines as specified in this section shall use ultra low sulfur diesel or ultra low sulfur bio-diesel (a sulfur content of 15 ppm or 0.0015% sulfur by weight or less), gasoline, natural gas, propane, liquefied petroleum gas (LPG), hydrogen, ethanol, methanol, or liquefied/compressed natural gas (LNG/CNG). A facility that receives deliveries of only ultra low sulfur diesel or ultra low sulfur bio-diesel is deemed to be compliant with this fuel standard.

304.4 For each nonroad engine as specified in this section greater than 500 bhp: The owner or operator shall notify NWCAA within 15 calendar days prior to surpassing the engine remaining at a facility for 12 consecutive months. This notification shall include the make, model, serial number, rating, fuel type, date the engine was brought to the facility, and engine function or purpose.

Passed: April 11, 2019

## SECTION 305 – PUBLIC INVOLVEMENT

### 305.1 Internet Notice

- (A) A notice shall be published on the NWCAA website for each Notice of Construction (NOC) application received by the NWCAA under NWCAA 300.7 and each revision request to an Order of Approval received under NWCAA 300.12. The internet notice shall remain on the NWCAA website for a minimum of 15 consecutive days and shall include the following information:
- (1) name and location of the affected facility,
  - (2) brief description of the proposed action, and
  - (3) a statement that a public comment period may be requested within 15 days of the initial date of the internet posting.
- (B) Requests for a public comment period must be submitted in writing via letter, fax, or email and received by the NWCAA during the 15-day internet notice period. A public comment period shall be provided in accordance with NWCAA 305.3 for any NOC application or proposed Order of Approval revision that receives such a request. Any NOC application or proposed Order of Approval revision for which a public comment period is not requested may be processed without further public involvement at the end of the 15-day request period except as provided in NWCAA 305.2.

### 305.2 Actions Subject to a Mandatory Public Comment Period

- (A) The NWCAA shall provide public notice and a public comment period in accordance with NWCAA 305.3, before approving or denying any of the following types of applications or other actions:
- (1) Use of a modified or substituted air quality model, other than a guideline model in Appendix W of 40 CFR Part 51 as referenced in NWCAA 104.2 as part of review under NWCAA Section 300.
  - (2) An Order to determine Reasonably Available Control Technology (RACT) pursuant to NWCAA 309.4(B), (C), (D), or (E).
  - (3) An Order to establish a compliance schedule or a variance.
  - (4) An Order to demonstrate the creditable height of a stack which exceeds the good engineering practice (GEP) formula height and 65 meters, by means of a fluid model or a field study, for the purposes of establishing an emission limit.
  - (5) An Order to authorize an emissions bubble pursuant to WAC 173-400-120.

- (6) A Regulatory Order to establish or debit emission reduction credits (ERC) issued under WAC 173-400-136.
- (7) An Order issued under WAC 173-400-091 that establishes limitations on a source's potential to emit.
- (8) An extension of the deadline to begin actual construction of a major stationary source or major modification in a nonattainment area.
- (9) The original issuance and any revisions to a General Order of Approval issued under NWCAA 300.16.
- (10) An Notice of Construction application or other proposed action for which the NWCAA determines there is substantial public interest.
- (11) A Notice of Construction application or proposed Order of Approval revision that receives a request for a public comment period under NWCAA 305.1.
- (12) A Notice of Construction application that would result in an emissions increase as follows:

Air Pollutant	Emission Rate in Tons per Year
Carbon Monoxide (CO)	100
Volatile Organic Compounds (VOC)	40
Sulfur Dioxide (SO <sub>2</sub> )	40
Nitrogen Oxides (NO <sub>x</sub> )	40
Particulate Matter (PM)	25
Fine Particulate Matter (PM <sub>10</sub> )	15
Fine Particulate Matter (PM <sub>2.5</sub> )	10
Lead	0.6
Fluorides	3
Sulfuric Acid Mist (H <sub>2</sub> SO <sub>4</sub> )	7
Hydrogen Sulfide (H <sub>2</sub> S)	10
Total Reduced Sulfur (including H <sub>2</sub> S)	10
Reduced Sulfur Compounds (including H <sub>2</sub> S)	10

- (13) An increase in emissions of a Toxic Air Pollutant with impacts greater than the Acceptable Source Impact Level (ASIL) for that Toxic Air Pollutant as regulated under chapter 173-460 WAC.
  - (14) A Notice of Construction Order of Approval with a second tier component as regulated under chapter 173-460 WAC.
- (B) Any Notice of Construction application designated for integrated review with an application to issue or modify an Air Operating Permit shall be

processed in accordance with the Air Operating Permit program procedures and deadlines set forth in chapter 173-401 WAC.

305.3 Public Comment Period

- (A) Public comment period notice for the actions listed under NWCAA 305.2 shall be posted on the NWCAA website for the duration of the public comment period. The NWCAA may supplement this method of notification by advertising in a newspaper of general circulation in the area of the proposed action or by other methods appropriate to notify the local community. The public comment period shall be initiated only after the NWCAA has made a preliminary determination. In the case of a permit action, the cost of providing all noticing shall be borne by the applicant.
- (B) The public comment period shall extend at least 30 days following the date the public notice is first published. If a public hearing is held, the public comment period shall extend at least through the hearing date and thereafter for such period as specified in the notice of public hearing.
- (C) The NOC application and any written preliminary determination by the NWCAA shall be available for the duration of the public comment period on the NWCAA website, excluding any confidential information as provided in NWCAA Section 114. In addition, the NOC application and any written determination may be made available for public inspection in at least one location near the proposed project. The NWCAA's written preliminary determination shall include the conclusions, determinations and pertinent supporting information from the NWCAA's analysis of the effect of the proposed project on air quality.
- (D) The public comment period notice shall include:
  - (1) Date the notice is posted;
  - (2) Name, location, and a brief description of the project;
  - (3) A description of the air contaminant emissions including the type of pollutants and quantity of emissions that would increase under the proposal;
  - (4) Location of documents made available for public inspection;
  - (5) Start date and end date of the public comment period;
  - (6) A statement that a public hearing may be held if the NWCAA determines that significant public interest exists; and
  - (7) The name, telephone number, and email address of a person at the NWCAA whom interested persons may contact for additional information.

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

### 305.5 Public Hearings

- (A) Any person, interested governmental entity, group or the applicant, may request a public hearing during the comment period specified in the public notice. Any such request shall indicate, in writing, the interest of the entity filing it and why a hearing is warranted. The NWCAA may, in its discretion, hold a public hearing if it determines that significant public interest exists. Any such hearing shall be held upon such notice and at a time and place as the NWCAA deems reasonable.
- (B) At least 30 days prior to the hearing, the NWCAA shall provide notice of the hearing as follows:
  - (1) Post the public hearing notice on the NWCAA website as directed by NWCAA 305.3(A). The NWCAA may supplement the web posting by advertising in a newspaper of general circulation in the area of the proposed source or action, or by other methods appropriate to notify the local community. In the case of a permit action, the cost of providing all noticing shall be borne by the applicant.
  - (2) The hearing legal notice shall include the date, time, and location of the hearing along with the information in NWCAA 305.3(D).
  - (3) Distribute via email or written letter the notice of public hearing to any person who submitted written comments on the application or requested a public hearing and, in the case of a permit action, to the applicant.
- (C) The public hearing notice requirements may be addressed as part of the public comment period notice requirements under NWCAA 305.3.

### 305.6 Consideration of Public Comments

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

### 305.7 Public Information

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

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

**SECTION 309 – REASONABLY AVAILABLE CONTROL TECHNOLOGY**

- 309.1 Reasonably Available Control Technology (RACT) is required for all existing sources except as otherwise provided in RCW 70.94.331(9).
- 309.2 Where current controls are determined by the NWCAA to be less than RACT, the NWCAA shall define RACT for that source or source category and issue a rule or an order under NWCAA 121 requiring the installation of RACT.
- 309.3 RACT for each source category containing three or more sources shall be determined by rule, except as provided in NWCAA 309.4.
- 309.4 Source-specific RACT determinations may be performed under any of the following circumstances:
- (A) For replacement or substantial alteration of existing control equipment under NWCAA 300.13;
  - (B) When required by the federal Clean Air Act;
  - (C) For sources in source categories containing fewer than three sources;
  - (D) When an air quality problem, for which the source is a contributor, justifies a source-specific RACT determination prior to development of a categorical RACT rule; or
  - (E) When a source-specific RACT determination is needed to address either specific air quality problems, for which the source is a significant contributor, or source-specific economic concerns.
- 309.5 The Control Officer shall have the authority to perform a RACT determination, to hire a consultant to perform relevant RACT analyses in whole or in part, or to order the owner or operator to perform RACT analyses and submit the results to the NWCAA.
- 309.6 In determining RACT, the NWCAA shall utilize the factors set forth in the RACT definition in NWCAA 200 and shall consider RACT determinations and guidance made by the EPA, other states, and local authorities for similar sources, and other relevant factors. In establishing or revising RACT requirements, the NWCAA shall address, where practicable, all air contaminants deemed to be of concern for that source or source category.
- 309.7 The NWCAA shall assess a fee to be paid by any source included in a RACT determination to cover the direct and indirect costs of developing, establishing, or reviewing categorical or source-specific RACT determinations. The fee for RACT determinations shall be as established in

NWCAA 324.6. The amount of the fee may not exceed the direct and indirect costs of establishing the requirement for the particular source or the pro rata portion of the direct and indirect costs of establishing the requirement for the relevant source category.

- 309.8 Emission standards and other requirements contained in rules or regulatory orders in effect at the time of operating permit issuance shall be considered RACT for purposes of operating permit issuance or renewal.
- 309.9 Replacement or substantial alteration of control equipment under NWCAA 300.13 shall be subject to the New Source Review fees under NWCAA 324.2, in lieu of RACT fees under this section.

PASSED: March 14, 2013 AMENDED: October 8, 2015

### **SECTION 320 - REGISTRATION PROGRAM**

- 320.1 Program Authority, Applicability and Purpose. As authorized by RCW 70.94.151, the Board, by the NWCAA Regulation, requires registration and reporting for specified classes of stationary air contaminant sources (including temporary sources) which may cause or contribute to air pollution. This classification is made according to levels and types of emissions and other characteristics that cause or contribute to air pollution with special reference to effects on health, economic and social factors, and physical effects on property. The purpose of the registration program is to develop and maintain a current and accurate record of stationary air contaminant sources (including temporary sources) within the NWCAA jurisdiction. Information collected through the registration program is used to evaluate the effectiveness of air pollution control strategies and to verify source compliance with applicable air pollution requirements.
- 320.2 Registration and Reporting. The owner or operator of a stationary air contaminant source (including temporary sources) for which registration and reporting are required, shall register the source with the NWCAA. The owner or operator shall make reports to the NWCAA containing information as may be required by the NWCAA concerning location, size, and height of air contaminant outlets, processes employed, nature of the air contaminant emission, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.
- 320.3 Annual Registration Fees. Registered sources shall pay an annual registration fee. The Board has determined the fee for registered sources as specified in Section 324.1. The amount of fees collected shall not exceed the costs of implementing this registration program. Implementing the registration program includes, but is not limited to:
- (A) Review of registered source emission reports and other periodic reports and conducting related compilation and reporting activities;

- (B) Conducting compliance inspections, complaint investigations, and other activities necessary to ensure that a registered source is complying with permit, Order, or regulatory requirements, as applicable, including determination of registration applicability;
- (C) The share attributable to registered sources of the development and maintenance of emissions inventories;
- (D) The share attributable to registered sources for data storage and retrieval systems necessary for support of the registration program;
- (E) Registered source fee determinations, assessment, and collection, including the costs of necessary administrative dispute resolution and penalty collection;
- (F) The share attributable to registered sources for administration of the program including costs of clerical support, supervision, and management; tracking of time, revenues and expenditures; accounting activities; required fiscal audits and reporting activities; enforcement activities and penalty assessment, excluding the costs of proceedings before the pollution control hearings board and all costs of judicial enforcement.

320.4 Any registered source that does not pay the applicable annual registration fee by the deadline shall be considered a new source and shall submit a Notice of Construction application and receive an Order of Approval prior to resumption of operation.

#### 320.5 Registration Required

- (A) Source categories. Except as provided in NWCAA Section 321, the owner or operator of a source that falls into at least one of the following source categories shall register with the NWCAA:

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

Any source subject to 40 CFR Part 62.

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

Any source that has elected to opt-out of the operating permit program by limiting its potential-to-emit (synthetic minor) or is required to report periodically to demonstrate nonapplicability of EPA requirements under 40 CFR Part 63.



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

Any source with a facility-wide uncontrolled potential to emit emission rate of one or more pollutants equal to or greater than the registered source exemption emission rates as specified in WAC 173-400-102(5) or the Small Quantity Emission Rates (SQER) for Toxic Air Pollutants as specified in chapter 173-460 WAC.

- (B) Source types. Except as provided in NWCAA Section 321, the owner or operator of a source that falls into at least one of the following source types shall register with the NWCAA:

Abrasive blasting operations.

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

Agricultural drying and dehydrating operations.

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

Casting facilities and foundries, ferrous and nonferrous.

Coffee roasting facilities.

Commercial smoke houses.

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

Composting operations (commercial, industrial, and municipal).

Concrete product manufacturers and ready mix and premix concrete plants.

Flexible vinyl and urethane coating and printing operations.

Gasoline dispensing facilities and bulk gasoline plants.

Glass manufacturing plants.

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

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

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

Metal plating and anodizing operations.

Metallic and nonmetallic mineral processing plants, including rock crushing plants and sand and gravel operations.

Perchloroethylene dry cleaners.

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

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

Wastewater treatment plants.

Welding and metal cutting operations.

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

- (C) Equipment classification list. Except as provided in NWCAA Section 321, the owner or operator of the following equipment shall register with the NWCAA:

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

Chemical concentration evaporators.

Crematoria or animal carcass incinerators.

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

Ethylene oxide (ETO) sterilizers.

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

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

Gas collection systems with flares or other combustion devices.

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

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

Incinerators;

Ovens, burn-out or heat-treat.

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

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

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

Storage tanks, reservoirs, or containers with:

- (1) a rated capacity greater than 6,000 gallons storing volatile organic liquids, other than petroleum liquids, having a true vapor pressure equal to or greater than 1.5 psia or
- (2) a rated capacity greater than 40,000 gallons storing petroleum liquids having a true vapor pressure equal to or greater than 1.5 psia.

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

- (D) The Control Officer may require that any source or equipment, that would otherwise be exempt, be registered as specified in this section. This discretionary determination will be based on the amount and nature of air contaminants produced, or the potential to contribute to air pollution, with special reference to effects on health, economic and social factors, and physical effects on property.

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

## **SECTION 321 – EXEMPTIONS FROM REGISTRATION**

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

321.2 The following stationary sources of air contaminants are exempt from registration:

Sources that require an Air Operating Permit pursuant to NWCAA Section 322.

Residential and agricultural composting activities.

321.3 The Control Officer may exempt any source or equipment, including any listed in NWCAA Section 320, from registration. This discretionary determination will be based on the amount and nature of air contaminants produced, or the potential to contribute to air pollution, with special reference to effects on health, economic and social factors, and physical effects on property.

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

PASSED: January 8, 1969 AMENDED: February 14, 1973, August 8, 1978, March 13, 1997, November 12, 1998, June 9, 2011, November 17, 2011, April 11, 2019

## **SECTION 322 - AIR OPERATING PERMIT PROGRAM (AOP)**

- 322.1 Purpose. The purpose of this section is to provide for a comprehensive operating permit program consistent with the requirements of Title V of the Federal Clean Air Act (FCAA) Amendments of 1990 and its implementing regulation 40 CFR Part 70, and RCW 70.94.161 and its implementing regulation Chapter 173-401 of the Washington Administrative Code (WAC).
- 322.2 Applicability. The provisions of this section shall apply to all sources within the NWCAA jurisdiction excluding those regulated by the Washington State Department of Ecology Industrial Section subject to the requirements of Section 7661(a) of the FCAA or Chapter 173-401-300 WAC.
- 322.3 Compliance. It shall be unlawful for any person to cause or allow the operation of any source subject to the requirements of Chapter 173-401 WAC without complying with the provisions of Chapter 173-401 WAC and any permit issued under its authority.
- 322.4 Air Operating Permit Fees.
- a) The NWCAA shall levy annual operating permit program fees as set forth in this section to cover the cost of administering its operating permit program.
  - b) Commencing with the effective date of the operating permit program, the NWCAA shall assess and collect annual air operating permit fees in its jurisdiction for any source specified in Section 7661(a) of Title V of the FCAA or Chapter 173-401-300 WAC (excluding sources regulated by the Washington State Department of Ecology Industrial Section). The total fees required by the NWCAA to administer the program shall be determined by a workload analysis conducted by the staff and approved annually by a resolution by the Board of Directors. Allocation of the fees to individual affected sources shall be based on the following:
    - 1) Ten percent (10%) of the total fees shall be allocated equally among all affected sources.
    - 2) Ninety percent (90%) of the total fees shall be allocated based on actual emissions of regulated pollutants identified in the most recent annual emission inventory or potential emissions if actual data are unavailable. A regulated pollutant for fee calculation shall include:  
Nitrogen oxides (NO<sub>x</sub>);

Volatile organic compounds (VOC's);

Particulate matter with an aerodynamic particle diameter less than or equal to 10 micrometers (PM<sub>10</sub>);

Sulfur dioxide (SO<sub>2</sub>);

Lead; and

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

- c) Upon assessment by the NWCAA, fees are due and payable and shall be deemed delinquent if not fully paid within 90 days. Any source that fails to pay a fee imposed under this section within 90 days of the due date shall be assessed a late penalty in the amount of 50 percent of the fee. This late penalty shall be in addition to the fee assessed under this section.
- d) The NWCAA shall collect and transfer to the Washington State Department of Ecology a surcharge established by the Department of Ecology to cover the Department of Ecology's program development and oversight costs attributable to subject sources within the NWCAA jurisdiction. Fees for the Department of Ecology shall be allocated to affected sources in the same manner specified in this section.
- e) An affected source subject to the operating permit program that is required to pay an annual operating permit program fee shall not be required to pay a registration fee as specified in Section 324.

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

## **SECTION 324 - FEES**

### **324.1 Annual Registration Fees**

- (A) All registered air pollution sources shall pay the appropriate fee(s), which shall be established to cover the cost of administering the program, adjusted periodically based on the three-year average change of the "December annual average – Seattle/Tacoma/Bremerton Consumer Price Index for all Urban Consumers", rounded to the nearest dollar or other index, as set forth in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.
- (B) Upon assessment by the NWCAA, registration fees are due and payable. A source shall be assessed a late penalty in the amount of 25 percent of the registration fee for failure to pay the registration fee within 30 days after the due date. The late penalty shall be in addition to the registration fee.

324.2 New Source Review Fees

- (A) New source review fees and fees for review of an application to replace or substantially alter the emission control technology installed on an existing stationary source emission unit shall be submitted with each Notice of Construction (NOC) application or request for a NOC applicability determination.
- (B) The applicable fee(s) shall be established to cover the direct and indirect costs of processing an application, adjusted periodically based on the three-year average change of the "December annual average – Seattle/Tacoma/Bremerton Consumer Price Index for all Urban Consumers", rounded to the nearest dollar or other index, as set forth in the current fee schedule adopted by Resolution by the Board of Directors of the NWCAA.

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

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

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

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

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

324.8 Asbestos Program Fee. The applicable fee(s) shall be established to cover the direct and indirect costs of administering the program as set forth in the

current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.

- 324.9 Agricultural Burning Fee. The applicable fee(s) shall be established as described in RCW 70.94.6528 and WAC 173-430-041 as referenced in NWCAA 104.1 as set forth in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.
- 324.10 Outdoor Burning Fee. The applicable fee(s) shall be established to cover the cost of administering the program as set forth in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.
- 324.20 Procedure for Adoption and Revision of Fee Schedules. A proposed resolution that adopts or changes any fee schedules described in this section shall be posted on the NWCAA website for not less than 30 days prior to the Board of Directors meeting at which the Board takes action on the resolution. In addition, an electronic version of the proposed fee schedule or proposed fee schedule changes shall be provided by e-mail to any person requesting notice of proposed fee schedules or proposed fee schedule changes, not less than 30 days prior to the Board meeting at which such changes are considered. It shall be the ongoing responsibility of a person requesting electronic notice of proposed fee schedule amendments to provide their current e-mail address to the NWCAA; however, no person is required to request such notice. Each notice of a proposed fee schedule or proposed fee schedule change shall provide for a comment period on the proposal of not less than 30 days. Any such proposal shall be subject to public comment at the Board meeting where such changes are considered. No final decision on a proposed fee schedule or proposed fee schedule change shall be taken until the public comment period has ended and any comments received during the public comment period have been considered.

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

### **SECTION 325—TRANSFER OR PERMANENT SHUTDOWN**

- 325.1 A registration, regulatory order, approval to construct, operate or use any article, machine, equipment, or other contrivance, shall not be transferable, whether by operation of law or otherwise, either from one location to another or from one piece of equipment to another provided that, registered sources which are designed to be portable and are moved from one location to another may retain the same registration so long as they abide by the requirements of NWCAA Sections 300 and 301.
- 325.2 The registered owner or operator shall report the transfer of ownership or permanent shutdown of a registered source to the NWCAA within ninety (90)



days of shutdown or transfer. The report shall contain the following information:

- a) Legal name of the existing business as registered with the NWCAA;
- b) Effective date of the shutdown or transfer;
- c) Description of the affected emission units; and
- d) Name and telephone number of the owner, operator, and authorized representative.
- e) The new legal name of the business, and legal names and contact information for the owner, operator and registered agent.

325.3 Any party that assumes ownership and/or operational control of a registered source shall file a written report with the NWCAA within ninety (90) days of completing transfer of ownership and/or assuming operational control. The report shall contain the following information:

- a) Legal name of the business before and after the transfer and individuals involved in the transfer;
- b) Effective date of the transfer;
- c) Description of the affected emission units; and
- d) Name and telephone number of the owner, operator, and authorized representative.

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

PASSED: February 4, 1970 AMENDED: February 14, 1973, July 10, 2003, July 14, 2005, November 8, 2007

## **SECTION 340 - REPORT OF BREAKDOWN AND UPSET**

340.1 If a breakdown or upset condition occurs which results in or may have resulted in an exceedance of an emission and/or ambient air quality standard established by this Regulation or an emission release to the air that requires NWCAA notification as specified in 40 CFR 302 (CERCLA) or 40 CFR 355 (SARA), the owner or operator of the source shall take the following actions:

- a) The upset or breakdown shall be reported as promptly as possible and in no event later than twelve (12) hours to the NWCAA.

- b) For Title V Air Operating Permit sources, the responsible official, or their designee, shall submit a full report no later than 30 days after the end of the calendar month in which the breakdown or upset occurred that resulted in an exceedance of an ambient or emission standard of this Regulation. The report shall be submitted on forms provided by the NWCAA and must include, at a minimum, the known causes, corrective action taken, preventive measures put in place to reduce the possibility of or eliminate a recurrence, and an estimate of the quantity of emissions above the applicable limit caused by the event. Other non-Title V Air Operating Permit sources shall file a full report to the NWCAA within 30 days upon the request of the Control Officer.
- 340.2 Compliance with the requirements of this section does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of this Regulation nor from the resulting liabilities for failure to comply.
- 340.3 It shall be prima facie evidence of violation of this Regulation if:
- a) any control equipment is turned off, broken down or otherwise inoperative, and a notice of breakdown has not been filed under Section 340.1, or
  - b) any other equipment creates new or increased emissions to the atmosphere as the result of being turned off, broken down or otherwise inoperative, and a notice of breakdown has not been filed under Section 340.1.
- 340.4 Excess emissions due to breakdowns and upsets shall be considered unavoidable, and not subject to penalty, provided the stationary source adequately demonstrates that:
- a) The event was not caused by poor or inadequate design, operation, maintenance, or any other reasonably preventable condition;
  - b) The event was not of a recurring pattern indicative of inadequate design, operation, or maintenance;
  - c) The operator took immediate and appropriate corrective action in a manner consistent with good air pollution control practice; and
  - d) The emissions did not result in a violation of an ambient air quality standard.

AMENDED: November 14, 1984, October 14, 1987, April 14, 1993, October 13, 1994, February 8, 1996, July 14, 2005, November 8, 2007

## **SECTION 341 - REPORT OF SHUTDOWN OR STARTUP**

- 341.1 If the operator of any air contaminant source registered in the NWCAA jurisdiction or operating under a Title V air operating permit issued by the NWCAA schedules a total or partial shutdown or startup of control or process equipment that the source reasonably believes would result in emissions which may temporarily exceed an emission standard of this Regulation; the operator or owner of the source shall notify the NWCAA in advance of the shutdown or startup.
- 341.2 The advanced notification shall include a general schedule of steps to be taken to minimize the release of air contaminants to the atmosphere including the reasons for and duration of the proposed shutdown or startup, the nature of the action to be taken, the date and time for the action and an estimate of the anticipated rate and concentration of emission.
- 341.3 Compliance with the requirements of this section does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with the requirements of this Regulation nor from the resulting liabilities for failure to comply.
- 341.4 Excess emissions due to shutdown or startup shall be considered unavoidable, and not subject to penalty, provided the stationary source adequately demonstrates that the excess emissions could not have been prevented through careful planning and design, the emissions did not result in a violation of an ambient air quality standard and if a bypass of control equipment occurs, that such bypass is necessary to prevent loss of life, personal injury, or severe property damage.
- 341.5 For Title V Air Operating Permit sources, the responsible official, or their designee, shall submit a full report no later than 30 days after the end of the calendar month in which the shutdown or startup occurred that resulted in an exceedance of an ambient or an emission standard of this Regulation. The report shall be submitted on forms provided by the NWCAA and must include, at minimum, the known causes, corrective action taken, preventive measures put in place to reduce the possibility of or eliminate a recurrence, and an estimate of the quantity of emissions above the applicable limit caused by the event. Other non-Title V Air Operating Permit sources shall file a full report to the NWCAA within 30 days upon the request of the Control Officer.

AMENDED: November 14, 1984, April 14, 1993, September 8, 1993, May 11, 1995, February 8, 1996, July 14, 2005

## **SECTION 342 - OPERATION AND MAINTENANCE**

- 342.1 All air contaminant stationary sources are required to keep any process and/or air pollution control equipment in good operating condition and repair.
- 342.2 Operating instructions and maintenance schedules for process and/or control equipment must be available on the site.

AMENDED: April 14, 1993, September 8, 1993, May 11, 1995, February 8, 1996, March 13, 1997, July 14, 2005

## **SECTION 350 - VARIANCES**

- 350.1 Any person who owns or is in control of any plant, building, structure, establishment, process or equipment including a group of persons who own or control like processes or like equipment may apply to the board for a variance from the rules or Regulation governing the quality, nature, duration or extent of discharge of air contaminants. The application shall be accompanied by such information and data as the Board may require. The Board may grant such variance, but only after public hearing or due notice, if it finds that:
- (A) The emissions occurring or proposed to occur do not endanger public health or safety; and
  - (B) Compliance with the rules or Regulation from which variance is sought would produce serious hardship without equal or greater benefits to the public.
- 350.2 No variance shall be granted pursuant to this Section until the Board has considered the relative interests of the applicant, other owners or property likely to be affected by the discharge, and the general public.
- 350.3 Any variance or renewal thereof shall be granted within the requirements of Section 350.1 and for time periods and under conditions consistent with reasons therefore, and with the following limitations:
- (A) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement, or control of the pollution involved, it shall be only until the necessary means for prevention, abatement, or control becomes known and available, and subject to the taking of any substitute or alternate measure that the Board may prescribe.
  - (B) If the variance is granted on the ground that compliance with the particulate requirements or requirement from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time, as in view of the Board,

is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.

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

350.4 Any variance granted pursuant to this Section may be renewed on terms and conditions and for periods which would be appropriate under all circumstances including the criteria considered on the initial granting of a variance and that acquired during the existence of the variance. If a complaint is made to the board on account of the variance, no renewal thereof shall be granted unless, following a public hearing on the complaint on due notice, the board finds that renewal is justified. No renewal shall be granted except on application thereof. Any such application shall be made at least sixty (60) days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the Board shall give public notice of such application in accordance with the rules and Regulation of the Board.

350.5 A variance or renewal shall not be a right of the applicant or holder thereof but shall be at the discretion of the Board. However, any applicant adversely affected by the denial or the terms and conditions of the granting of an application for a variance or renewal of a variance by the Board, may obtain judicial review thereof under the provisions of Section 123 or Chapter 43.21B RCW as now or hereafter amended.

350.6 Nothing in this Section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of RCW 70.94.715 to any person or his property.

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

## **SECTION 367 – GENERAL REQUIREMENTS FOR MONITORING AND TESTING**

367.1 Any person operating a registered air contaminant source or an air operating permit source may, at any time, be required to monitor the ambient air, or process emissions, or conduct emission tests as deemed necessary by the Control Officer.

367.2 Before an approval to construct or a registration certificate is granted, the Control Officer may require the owner or applicant to provide and maintain such facilities as are necessary for sampling and testing purposes, including but not limited to safe access to sample locations, sample platforms, proper sample ports, and adequate shelter where appropriate.

- 367.3 All ambient monitoring, compliance testing, continuous emission monitoring systems, and continuous opacity monitoring systems required by a regulation, order of approval or permit issued by the NWCAA shall comply with the applicable requirements of this Section and Appendix A of this Regulation. The applicable requirements of this Section and Appendix A are in addition to any monitoring, testing, calibration, or quality assurance/quality control requirements that otherwise apply.
- 367.4 The Control Officer may take such samples and may perform any tests and investigations as are deemed necessary to determine the accuracy of the monitoring reports and data submitted to the NWCAA. The owner or operator may also be required by the Control Officer to collect a sample using an approved procedure and submit the results of the analysis thereof within a reasonable period of time.
- 367.5 Any NWCAA mandated testing or monitoring which is not part of a federally-approved State Implementation Plan or other federally enforceable regulation must be approved by the NWCAA. Such testing or monitoring may include the use of alternative methods, modified standard methods, and requirements or procedures not described in Appendix A of this Regulation.
- 367.6 The Control Officer may approve site-specific minor and intermediate changes to testing, monitoring, recordkeeping, and reporting requirements under the following conditions:
- (A) In determining whether a change is minor or intermediate, NWCAA will use as a guide the definitions in 40 CFR 63.90 (July 1, 2004);
  - (B) Where the testing, monitoring, recordkeeping, or reporting requirement is included in a permit, the approval is made through the applicable permit revision procedures;
  - (C) NWCAA maintains a record of all approved changes to all testing, monitoring, recordkeeping, and reporting and provides a list of such changes to EPA Region 10 at least semi-annually.
- 367.7 The Control Officer may approve major changes to testing, monitoring, recordkeeping, and reporting requirements if such requirements are not part of the federally-approved State Implementation Plan or otherwise federally enforceable. Major changes to testing, monitoring, recordkeeping, and reporting requirements that are part of the federally-approved State Implementation Plan or otherwise federally enforceable require EPA approval.
- 367.8 Significant Figures and Rounding:
- (A) All parameters used in stack test measurements and calculations shall meet or exceed the precision implied by an applicable standard, that is, contain at least as many significant figures as the standard.

Additional numbers may be retained until the final rounding to calculate the emission rate or concentration. Unless specified by using scientific notation, all digits displayed in a standard, including zeros, are considered significant.

(B) Rounding shall use the following convention:

First digit to be discarded	Last valid digit
>5, or a 5 followed by a non zero	round up
<5	retain as is
5 , or 5 followed by only zero	round up if odd, retain if even

PASSED: July 14, 2005

## **SECTION 400 - AMBIENT AIR QUALITY STANDARDS - FORWARD**

- 400.1 In the interest of the people within the jurisdiction of the NWCAA, it is the objective of the NWCAA to obtain and maintain the cleanest air possible, consistent with the highest and best practicable control technology.
- 400.2 In the areas where existing concentrations of air contaminants are below the concentrations allowed by the standards enumerated in chapter 173-476 WAC as referenced in NWCAA 104.1, degradation of the atmosphere should be minimized. The highest and best practicable control technology should be applied to all sources unless it is specifically determined that lesser technology is justified. Ambient air standards are set at levels which, according to latest knowledge, will not cause damage to health, plants or animals or degrade materials.

PASSED: February 14, 1973 AMENDED: April 11, 2019

## **SECTION 450 - EMISSION STANDARDS - FOREWORD**

- 450.1 The NWCAA recognizes the need for accurate source air contaminant data when attempting to correlate ground level concentrations with source emissions or when calculating the expected ground level concentrations.
- 450.2 Since accurate determination of the required data is a complex process, procedures for obtaining such data should be developed from the emission regulation set forth herein.
- 450.3 In exercising judgement regarding possible ground level concentrations from stack emission data, three desirable elements are:
- 450.31 Source emission rate data obtained by actual measurement.
  - 450.32 A mathematical model of the community diffusion situation.
  - 450.33 Values for parameters of the model.
- 450.4 The NWCAA may develop emission standards for pollutants presently not being emitted in the area of jurisdiction to serve as guides for industries considering locating here. These are to be based on the best control experience elsewhere in the nation and consistent with latest technological achievements.

PASSED: January 8, 1969 AMENDED: April 14, 1993



**SECTION 451 - EMISSION OF AIR CONTAMINANT - VISUAL STANDARD**

451.1 No person shall cause or permit the emission, for any period aggregating more than 3 minutes in any 1 hour, of an air contaminant from any source which, at the point of emission, or within a reasonable distance of the point of emission, exceeds 20% opacity except as follows:

451.11 When the owner or operator of a source supplies valid data to show that the opacity is in excess of 20% as a result of the presence of condensed water droplets, and that the concentration of the particulate matter, as shown by a source test approved by the Control Officer, is less than 0.10 grain/dscf (0.23 g/m<sup>3</sup>).

451.12 Excess emissions as a result of soot blowing or grate cleaning shall not occur for more than fifteen minutes in any eight hour period or another schedule approved by the Control Officer provided that the owner or operator can demonstrate to the satisfaction of the Control Officer that the time limitations of this subsection are not being exceeded.

AMENDED: April 14, 1993, October 13, 1994, May 11, 1995, November 8, 2007

**SECTION 455 - EMISSION OF PARTICULATE MATTER**

455.1 No person shall cause or permit emission of particulate matter in excess of 0.10 grain/dry standard cubic foot (dscf) (0.23 g/m<sup>3</sup>) (combustion emissions shall be corrected to 7% O<sub>2</sub>) except:

455.11 From all gaseous and distillate fuel burning equipment, emissions shall not exceed 0.05 grain/dscf (0.11 g/m<sup>3</sup>) corrected to 7% oxygen.

455.12 From existing sources utilizing combustion of wood for the production of steam, no person shall allow or permit emission of particulate matter in excess of 0.20 grain/dscf (0.46 g/m<sup>3</sup>) corrected to 7% oxygen, as measured by procedures specified by the Control Officer.

455.13 From all existing petroleum catalytic cracking units emissions shall not exceed 0.20 grain/dscf (0.46 g/m<sup>3</sup>) of exhaust gas as corrected to 7% oxygen.

455.14 Wood waste burners shall meet the provisions of Section 458.2.

455.15 Upon request by a source, the Control Officer may approve an alternate correction factor that is determined to be more representative of normal operations if it can be demonstrated that there will be no violations of any ambient air quality standard.

455.2 Information regarding particulate size distribution may be required at the discretion of the Control Officer.

PASSED: January 8, 1969 AMENDED: February 4, 1970, February 14, 1973, January 9, 1974, August 9, 1978, April 14, 1993, May 11, 1995

### **SECTION 458 - INCINERATORS - WOOD WASTE BURNERS**

- 458.1 All wood waste burners are required to meet the following conditions:
- 458.11 Visual emission of air contaminants from all wood waste burners shall meet the applicable provisions of Section 451.
  - 458.12 All persons shall use Best Available Control Technology (BACT) in installing, maintaining, and operating wood waste burners. This requirement shall include a controlled tangential vent over-fire air system, an adequate under-fire air system, and the elimination of all unnecessary openings in the burner.
- 458.2 It shall be unlawful to cause or permit the emission of particulate matter (including smoke) from any wood waste burner, which moves beyond the property owned or controlled by the owner or operator of said burner, in sufficient quantity and of such characteristics and duration as is or is likely to be injurious or cause damage to human health, plant or animal life or property, or which unreasonably interferes with the enjoyment of property.

PASSED: June 14, 1972 AMENDED: August 8, 1978

### **SECTION 460 - AMBIENT MONITORING OF SULFUR DIOXIDE**

- 460.1 NWCAA Section 460 shall apply to all petroleum refineries.
- 460.2 Owners or operators of subject sources shall install, calibrate, maintain, and operate monitoring equipment as follows:
- (A) At least one continuous recording meteorological station equipped to record wind speed and direction.
  - (B) At least one sulfur dioxide ambient station.
- 460.3 The monitoring equipment required to be installed under NWCAA 460.2 shall comply with the provisions of NWCAA Section 367

PASSED: November 11, 1971 AMENDED: February 14, 1973, January 9, 1974, August 9, 1978, February 8, 1996, July 14, 2005, April 11, 2019

### **SECTION 462 - EMISSION OF SULFUR COMPOUNDS**

- 462.1 It shall be unlawful for any person to cause or permit the emission of air contaminants from any equipment if the air contaminants emitted as measured in the stack contain sulfur compounds calculated as sulfur dioxide,

of more than one thousand (1,000) parts per million (2.62 mg/m<sup>3</sup>), averaged for a sixty consecutive minute period, except as otherwise provided by a specific emission restriction adopted by the NWCAA and/or the DOE. For the purpose of this section, all sulfur present in gaseous compounds containing oxygen shall be deemed present as sulfur dioxide.

- 462.2 Emissions of sulfur compounds calculated to be in excess of 1,000 parts per million (2.62 mg/m<sup>3</sup>) at any emission point, averaged for a sixty consecutive minute period, shall not constitute a violation of Section 462.1 of this Regulation, provided such person responsible for the emission provides reasonable evidence that such emissions will not cause ground level concentrations on adjacent property to exceed the values indicated in Section 410 of this Regulation, and can demonstrate to the Control Officer there is no practical method of reducing the concentration to the above levels or less.
- 462.3 All concentrations of sulfur dioxide referred to in this Section are on a volumetric dry basis. For combustion emissions, the exhaust gas volume shall be corrected to 7% oxygen.

PASSED: July 8, 1969 AMENDED: August 4, 1971, January 9, 1974, August 9, 1978, July 1, 1987, October 14, 1987, April 14, 1992, October 13, 1994, March 13, 1997

## **SECTION 465 - SULFURIC ACID PLANTS**

- 465.1 It shall be unlawful for any person to operate a contact type sulfuric acid plant for any cause or allow the following types of air contaminants to be emitted to the atmosphere in excess of the following emission rates per ton of sulfuric acid produced expressed as 100% sulfuric acid:
- 465.11 Existing plants ten (10) pounds and new plants, as of the effective date of this subsection, four (4) pounds of sulfur dioxide tailgas emission, and;
  - 465.12 Fifteen hundredths (0.15) pound of sulfuric acid mist (including sulfur trioxide), and;
  - 465.13 Ten (10) percent opacity or greater for three minutes.
- 465.2 The owner or operator shall install, calibrate, maintain and operate, monitoring equipment as approved by the Control Officer as follows:
- 465.21 At least one continuous recording meteorological station equipped to record wind speeds and direction.
  - 465.22 At least one continuous recording ground level sulfur dioxide monitor.
  - 465.23 A continuous monitoring system for the measurement of sulfur dioxide in the exhaust gas passing through the stack from the sulfur dioxide control units if required by the Control Officer.

465.24 The monitoring equipment required to be installed under this Section shall comply with the equipment and performance specifications and reporting requirements as established by the Control Officer.

465.3 The Control Officer shall establish and stipulate test methods and procedures to be used to determine compliance with this section based upon current test methods and procedures established by the EPA as published in the Federal Register.

PASSED: August 4, 1971 AMENDED: January 9, 1974, August 9, 1978, April 14, 1993

## **SECTION 466 - PORTLAND CEMENT PLANTS**

466.1 It shall be unlawful for the owner or operator of any portland cement plant to cause or allow to be discharged into the atmosphere from:

466.11 Any sources any emission which:

466.111 Contains particulate matter in excess of 0.60 pounds/ton (0.3kg/metric ton) of dry feed to the kiln.

466.112 Contains particulate matter in excess of 0.1 grains per dry cubic foot of exhaust gas.

466.113 Exhibits greater than 20% opacity for a period(s), aggregating more than 3 minutes in any hour.

466.12 Any source any emission which does not meet the provisions of Section 530 and 550. These sections will be deemed to have been violated if the suspended particulate ambient sample concentration exceeds 100 micrograms per cubic meter of air at any sampling station located off the plant site and the Control Officer, after investigation of pertinent data, including meteorological data, determines if there is reasonable probability that the particulate emissions from the source resulted in the 100 microgram/cubic meter concentration being exceeded.

466.2 The owner or operator of any portland cement plant shall:

466.21 Record and report the daily production rates, kiln feed rates, fuel type and rates and such other information as the Control Officer may reasonably request.

466.22 Install, calibrate, maintain and operate a transmissometer or other opacity detector as approved by the Control officer to continuously monitor and record the opacity of the gases to be discharged into the atmosphere from any kiln.

- 466.221 Report all hourly periods in which there are one or more 3 minute periods during which the opacity of the gas discharge to the atmosphere from any kiln exceeds 20%.
- 466.3 Methods and procedures provided for in Sections 180, 360, 365 and 366, except as provided for in this subsection, or determined equivalent by the Control Officer, shall be used to determine compliance.
- 466.31 Gas Analysis.
- 466.331 The minimum sampling time and minimum sampling volume for each sampling run, except when process variables or other facts justify otherwise to the satisfaction of the Control Officer, shall be 60 minutes and 30.0 dscf (0.85 m<sup>3</sup>) for the kiln.
- 466.332 Total kiln feed rate (except fuels) expressed in tons per hour on a dry basis, shall be determined during each testing period by suitable approved methods and shall be confirmed by a material balance over the production system.

PASSED: May 11, 1977 AMENDED: August 9, 1978, April 14, 1993

## SECTION 502 - OUTDOOR BURNING

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

502.2 APPLICABILITY.

(A) This section specifically applies to:

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

(B) This section does not apply to:

- (1) Agricultural burning (which is governed by chapter 173-430 WAC as referenced in NWCAA 104.1);
- (2) Any outdoor burning on lands within the exterior boundaries of Indian reservations (unless provided for by intergovernmental agreements); and
- (3) Silvicultural burning (which is governed by chapter 332-24 WAC, the Washington state smoke management plan, and various laws including chapter 70.94 RCW as referenced in NWCAA 104.1).

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

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

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

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

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

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

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

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

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

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

NONATTAINMENT AREA – A clearly delineated geographic area designated by the Environmental Protection Agency at 40 CFR Part 81 as exceeding (or that contributes to ambient air quality in a nearby area that exceeds) a National Ambient Air Quality Standard (NAAQS) for a given criteria pollutant. An area is nonattainment only for the pollutants for which the area has been designated nonattainment.

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

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

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

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

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

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

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

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

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

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

RESPONSIBLE PERSON – Any of the following:

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

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



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

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

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

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

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

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

- (A) No person may cause or allow an outdoor fire in an area where the type of burning involved is prohibited under NWCAA 502.6, or where it requires a permit under NWCAA 502.5(B), unless a permit has been issued and is in effect.
- (B) PROHIBITED MATERIALS. It shall be unlawful for any person to cause or allow any outdoor fire containing garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper (other than what is necessary to start a fire), cardboard, treated wood, construction/demolition debris, metal or any substance (other than natural vegetation) that normally releases toxic emissions, dense smoke, or obnoxious odors when burned except as follows:

- (1) Aircraft crash rescue training fires approved and conducted in compliance with RCW 70.94.6528 as referenced in NWCAA 104.1 may contain uncontaminated petroleum products.
  - (2) Ecology or the NWCAA may allow the limited burning of prohibited materials for other firefighting instruction fires, including those that are exempt from permits under NWCAA 502.5(B)(6).
  - (3) Other outdoor burning necessary to protect public health and safety.
- (C) HAULED MATERIAL.
- (1) No outdoor fire may contain material (other than firewood) that has been hauled from an area where outdoor burning of the material is prohibited.
  - (2) Any outdoor burning of material hauled from areas where outdoor burning of the material is allowed requires an appropriate permit. Any property used for this purpose on an on-going basis must be:
    - (a) Limited to the types of burning listed in WAC 173-351-200(5)(b) as referenced in NWCAA 104.1 (criteria for municipal solid waste landfills), and
    - (b) Approved in accordance with other laws, including chapter 173-304 WAC as referenced in NWCAA 104.1 (minimum functional standards for solid waste handling) and chapter 173-400 WAC as referenced in NWCAA 104.1 (general regulations for air pollution sources).
- (D) CURTAILMENTS. During episodes or periods of impaired air quality, a responsible person for the fire must contact the permitting agency and/or any other designated source for information on the burning conditions for each day.
- (1) No outdoor fire shall be ignited in a geographical area where:
    - (a) Ecology has declared an air pollution episode;
    - (b) Ecology or the NWCAA has declared an impaired air quality condition for the county; or
    - (c) The appropriate fire protection authority has declared a fire danger burn ban, unless the NWCAA grants an exception.
  - (2) A responsible person for an outdoor fire shall extinguish the fire when an air pollution episode, an impaired air quality condition, or fire danger burn ban that applies to the burning is declared.

- (a) Smoke visible from all types of outdoor burning, except land clearing burning, after a time period of three hours has elapsed from the time an air pollution episode, impaired air quality condition, or fire danger burn ban is declared shall constitute prima facie evidence of unlawful outdoor burning.
  - (b) Smoke visible from land clearing burning after a time period of eight hours has elapsed from the time an air pollution episode, impaired air quality condition, or fire danger burn ban is declared shall constitute prima facie evidence of unlawful outdoor burning.
- (E) UNLAWFUL OUTDOOR BURNING/NUISANCE. It is unlawful for any person to cause or allow outdoor burning that causes an emission of smoke or any other air contaminant that is detrimental to the health, safety, or welfare of any person, that causes damage to property or business, or that causes a nuisance.
- (F) BURNING IN OUTDOOR CONTAINERS. Outdoor containers (such as burn barrels and other wood waste incinerators not regulated under NWCAA Section 458, used for outdoor burning, must be constructed of concrete or masonry with a completely enclosed combustion chamber and equipped with a permanently attached spark arrester constructed of iron, heavy wire mesh, or other noncombustible material with openings not larger than 0.5 inch, and they may only be used in compliance with this section.
- (G) OTHER GENERAL REQUIREMENTS.
  - (1) A person capable of extinguishing the fire must attend it at all times and the fire must be extinguished before leaving it.
  - (2) No fires are to be within 50 feet of structures.
  - (3) Permission from a landowner or owner's designated representative must be obtained before starting an outdoor fire.

#### 502.5 OUTDOOR BURNING PERMIT PROGRAM/REQUIREMENTS

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

agencies for each type of burning and determine the type of permit appropriate for each where a permit is required.

- (3) Permitting agencies may use a verbal, electronic, written, or general permit established by rule for any type of outdoor burning that requires a permit.
  - (4) A written permit should be used, where feasible, for land clearing burning, storm or flood debris burning in areas where residential burning and land clearing burning are prohibited under NWCAA 502.6(A), (B), or (C), and other outdoor burning (except any other outdoor burning necessary to protect public health and safety).
  - (5) Any person having an outstanding penalty obligation to the NWCAA as a result of a violation of Section 502, except under appeal to the Pollution Control Hearings Board (PCHB) or other judicial body, shall be denied additional outdoor burning permits until the remaining balance is paid.
- (B) TYPES OF BURNING THAT REQUIRE A PERMIT. Except as otherwise stated, a permit is required for the following types of outdoor burning:
- (1) Residential burning (except in nonurban areas of any county with an unincorporated population of less than 50,000);
  - (2) Land clearing burning;
  - (3) Storm or flood debris burning;
  - (4) Tumbleweed burning (except in counties with a population of less than 250,000);
  - (5) Weed abatement fires;
  - (6) Firefighting instruction fires for training to fight structural fires in urban growth areas and cities with a population over 10,000, and all other firefighting instruction fires, except:
    - (a) Firefighting instruction fires for training to fight structural fires as provided in RCW 52.12.150;
    - (b) Aircraft crash rescue fires as provided in RCW 70.94.650(5) as referenced in NWCAA 104.1; and
    - (c) Forest fires;
  - (7) Rare and endangered plant regeneration fires;
  - (8) Indian ceremonial fires (except on lands within the exterior boundaries of Indian reservations unless provided for by intergovernmental agreement);

- (9) Recreational fires with a total fuel area greater than three feet in diameter and/or two feet in height (except in the nonurban areas of counties with an unincorporated population of less than 50,000); and
- (10) Other outdoor burning if specifically authorized by the NWCAA.

(C) FEES.

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

(D) REQUIREMENTS FOR RESIDENTIAL BURNING.

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

- (1) A responsible person for the fire must contact the permitting agency and/or any other designated source for information on the burning conditions of each day.
- (2) A fire may not be ignited, and must be extinguished, if an air pollution episode, impaired air quality condition, or fire danger burn ban that applies to the burning, is declared for the area.
- (3) The fire must not include prohibited materials as listed in NWCAA 502.4(B).
- (4) The fire must not include materials hauled from another property.
- (5) If any emission from the fire is detrimental to the health, safety, or welfare of any person, if it causes damage to property or business, or if it causes a nuisance, the fire must be extinguished immediately.
- (6) A person capable of extinguishing the fire must attend it at all times and the fire must be extinguished before leaving it.
- (7) No fires are to be within 50 feet of structures.
- (8) Permission from a landowner, or owner's designated representative, must be obtained before starting an outdoor fire.
- (9) Any burn pile must not be larger than four feet in diameter and three feet high.

- (10) Only one pile at a time may be burned, and each pile must be extinguished before lighting another.
- (11) If an outdoor container is used for burning, it must be constructed of concrete or masonry with a completely enclosed combustion chamber and equipped with a permanently attached spark arrester constructed of iron, heavy wire mesh, or other noncombustible material with openings not larger than 0.5 inch.
- (12) No fire is allowed within 500 feet of forest slash.

(E) FIELD RESPONSE AND ENFORCEMENT

- (1) Any agency that issues permits, or adopts a general permit for any type of burning in an area, is responsible for field response to outdoor burning complaints and enforcement of all permit conditions and requirements unless another agency has agreed to be responsible.
- (2) Except for enforcing Section 502.4(E)(1)(d), the NWCAA will be responsible for enforcing any requirements that apply to burning that are prohibited or exempt from permits in areas of its jurisdiction, unless another agency agrees to be responsible.
- (3) Permitting agencies and enforcing agencies may require that corrective action be taken, and may assess penalties to the extent allowed if they discover noncompliance.

502.6 AREAS AND TYPES OF PROHIBITED OUTDOOR BURNING.

- (A) NONATTAINMENT AREAS. Residential burning and land clearing burning shall not occur in any areas that exceed federal or state ambient air quality standards for pollutants emitted by outdoor burning. These areas are limited to all nonattainment areas and former nonattainment areas for carbon monoxide, particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), sulfur dioxide, nitrogen dioxide, and lead.
- (B) URBAN GROWTH AREAS. No person shall cause or allow residential burning and land clearing burning in any urban growth areas.
- (C) CITIES OVER 10,000 POPULATION. Residential burning and land clearing burning shall not occur in any cities having a population greater than 10,000 people. Cities having this population must be identified by using the most current population estimates available for each city.
- (D) HIGH DENSITY AREAS. Land clearing burning shall not occur in any area having a general population density of 1,000 or more persons per square mile. All areas having this density must be identified by using

the most current population data available for each census block group and dividing by the land area of the block group in square miles.

- (E) AREAS WITH A REASONABLE ALTERNATIVE TO BURNING. Residential burning, land clearing burning, storm or flood debris burning, tumbleweed burning, weed abatement fires and other outdoor burning of organic refuse shall not occur in any area, including the areas identified in subsections 502.6(A) through 502.6(D), when a reasonable alternative for that type of burning is found to exist in the area for that type of burning. A reasonable alternative for a particular type of burning exists when the alternative is available and reasonably economical and less harmful to the environment as defined in WAC 173-425-040(5) as referenced in NWCAA 104.1.
- (F) No person shall cause or allow outdoor burning at permanently-located business establishments excluding land clearing operations.

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

## **SECTION 504 – AGRICULTURAL BURNING**

- 504.1 Purpose. This Section establishes fees and controls for agricultural burning in the NWCAA jurisdiction in order to minimize adverse health effects and environmental impacts, consistent with best management practices and the responsibilities of the NWCAA under chapter 173-430 WAC as referenced in NWCAA 104.1, RCW 70.94.6528 as referenced in NWCAA 104.1, 70.94.6532 as referenced in NWCAA 104.1, and 70.94.6524 as referenced in NWCAA 104.1. All agricultural burning as defined in chapter 173-430 WAC as referenced in NWCAA 104.1 shall be conducted in accordance with the provisions of that chapter.
- 504.2 Applicability. This Section applies to agricultural burning in all areas of the NWCAA jurisdiction unless specifically exempted. Nothing in Section 504 shall apply to silvicultural burning or other outdoor burning. Propane flaming for the purpose of vegetative debris removal is considered agricultural burning.
- 504.3 Conditions. All agricultural burning, except for agricultural burning that is incidental to commercial agricultural activities, requires a permit and payment of a fee issued by the NWCAA.
- 504.4 Fees. In accordance with RCW 70.94.6528 as referenced in NWCAA 104.1, the NWCAA shall assess a fee for all agricultural burning permits as specified in NWCAA 324.9.

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

## SECTION 506 - SOLID FUEL BURNING DEVICES

### 506.1 PURPOSE

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

### 506.2 DEFINITIONS

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

ADEQUATE SOURCE OF HEAT – A permanently installed furnace or heating system, connected or disconnected from its energy source, designed to maintain 70°F at a point 3 feet above the floor in all normally inhabited areas of a residence or commercial establishment. If any part of the heating system has been disconnected, damaged, or is otherwise nonfunctional, NWCAA will base the assessment of the adequacy of the design on the system's capability prior to the disconnection, damage, improper maintenance, malfunction, or occurrence that rendered the system nonfunctional.

CERTIFIED – Meeting at least one of the following:

- (1) Has been determined by Ecology to meet Washington emission performance standards pursuant to RCW 70.94.457 and WAC 173-433-100 as referenced in NWCAA 104.1;
- (2) Meets EPA emission performance standards when tested by an accredited independent laboratory and labeled according to procedures specified by EPA in 40 CFR 60 Subpart AAA as referenced in NWCAA 104.2; or
- (3) Was manufactured prior to 1989 and meets the "Oregon Department of Environmental Quality Phase 2" emissions standards contained in Subsections (2) and (3) of Section 340-21-115, and certified in accordance with "Oregon Administrative Rules, Chapter 340, Division 21 - Woodstove Certification" dated November 1984.

COAL STOVE - 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) An opening for loading coal which is located near the top or side of the appliance;
- (2) An opening for emptying ash which is located near the bottom or the side of the appliance;



- (3) A system which admits air primarily up and through the fuel bed;
- (4) A grate or other similar device for shaking or disturbing the fuel bed;
- (5) Listing by a nationally recognized safety testing laboratory for use of coal only, except for coal ignition purposes; and
- (6) Not configured or capable of burning cordwood.

COMMERCIAL ESTABLISHMENT - An establishment possessing a valid business license issued by a governmental entity.

COOKSTOVE – A wood-fired appliance designed with the primary function of cooking food, which has all of the following characteristics:

- (1) An integrally built-in oven with volume of 1 cubic foot or greater and an oven rack;
- (2) A cooking surface measured in square inches or square feet that is 1.5 times greater than the firebox measured in cubic inches or cubic feet (e.g., a firebox of 2 cubic feet would require a cooking surface of at least 3 square feet);
- (3) A device for measuring oven internal temperatures;
- (4) A flame path that is routed around the oven;
- (5) A shaker grate ash pan and an ash cleanout below the firebox;
- (6) 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.

Any device with a fan or heat channels used to dissipate heat into the room is not considered a cookstove. Devices designed or advertised as room heaters that also bake or cook do not qualify as cookstoves.

FIREPLACE - A permanently-installed masonry fireplace or a factory-built metal solid fuel burning device designed to be used with an air-to-fuel ratio equal to or greater than 35 to 1 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.

NON-AFFECTED PELLET STOVE - A pellet stove that has an air-to-fuel ratio equal to or greater than 35 to 1 when tested by an accredited laboratory in accordance with methods and procedures specified in EPA Method 28A in 40 CFR 60 Appendix A as referenced in NWCAA 104.2.

SEASONED WOOD – Untreated wood or untreated lumber of any species that has been sufficiently dried so as to contain 20 percent or less moisture by weight. It includes manufactured pressed wood products such as pellets and logs.

SOLID FUEL BURNING DEVICE – A device that burns wood, coal, or any other non-gaseous or non-liquid fuels, and includes any device burning any solid fuel except those prohibited by WAC 173-433-120 as referenced in NWCAA 104.1. This includes, but is not limited to, woodstoves, coal stoves, cookstoves, pellet stoves, fireplaces, and wood-burning hydronic heaters. This also includes devices used for aesthetic or space-heating purposes in a private residence or commercial establishment, which have a heat input of less than 1 million British thermal units per hour.

SUBSTANTIALLY REMODELED – Any alteration or restoration of a building the cost of which exceeds 60 percent of the appraised value of such building within a 12-month period.

TREATED WOOD – Wood of any species that has been chemically impregnated, painted, or similarly modified to improve resistance to insects, weathering or deterioration.

WOODSTOVE – A wood-fueled appliance, other than a cookstove, capable of and intended for residential space heating and domestic water heating that meets the criteria contained in 40 CFR 60 Subpart AAA as referenced in NWCAA 104.2 and has all of the following:

- (1) An air-to-fuel ratio in the combustion chamber averaging less than 35 to 1 as determined by EPA Method 28A in 40 CFR 60 Appendix A as referenced in NWCAA 104.2;
- (2) A useable firebox volume of less than 20 cubic feet;
- (3) A minimum burn rate less than 5 kg/hr as determined by EPA Method 28 in 40 CFR 60 Appendix A as referenced in NWCAA 104.2; and
- (4) 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.

### 506.3 EMISSION PERFORMANCE STANDARDS

- (A) Solid Fuel Burning Devices. Except as provided in Sections 506.3(B) and (C), a person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away any solid fuel burning device unless it complies

with WAC 173-433-100 as referenced in NWCAA 104.1 which includes meeting the following particulate air contaminant emission standards:

- (1) 2.5 g/hr for catalytic woodstoves and
  - (2) 4.5 g/hr for all other solid fuel burning devices.
- (B) Fireplaces. Except as provided in NWCAA 506.3(C), a person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away a factory-built fireplace unless it meets 40 CFR 60 Subpart AAA as referenced in NWCAA 104.2 or equivalent standard that may be established by the state building code council by rule. Particulate emissions from factory-built fireplaces shall not exceed 7.3 g/kg.
- (C) Solid fuel burning devices which have been rendered permanently inoperable are exempt from NWCAA 506.3(A) and (B).

#### 506.4 INSTALLATION OF SOLID FUEL BURNING DEVICES

- (A) No new or used solid fuel burning device shall be installed in new or existing buildings unless such device meets Washington state emission performance standards in WAC 173-433-100 as referenced in NWCAA 104.1. Any solid fuel burning device not meeting the applicable standards at the time of installation must be removed or rendered permanently inoperable.
- (B) An adequate source of heat other than a solid fuel burning device is required in all new and substantially remodeled residential and commercial construction. The rule shall apply to:
- (1) Areas designated by a county to be an urban growth area under chapter 36.70A RCW and
  - (2) Areas designated by the EPA as being in nonattainment for particulate matter.

#### 506.5 OPACITY STANDARDS

- (A) Opacity level. Any person shall not cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of 20 percent opacity for 6 consecutive minutes in any 1-hour period. This limit does not apply during the starting of a new fire for a period not to exceed 20 minutes in any 4-hour period.
- (B) Test methods and procedures. EPA Method 9 or EPA Alternative Method 082 will be used to determine compliance with this Section.
- (C) Enforcement. Smoke visible from a chimney, flue or exhaust duct in excess of the opacity standard shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This

presumption may be refuted by demonstration that the smoke was not caused by an applicable solid fuel burning device.

#### 506.6 FUEL TYPES

- (A) A person shall cause or allow only the following materials to be burned in a solid fuel burning device:
  - (1) Seasoned wood,
  - (2) An amount of paper necessary for starting a fire, and
  - (3) Coal with sulfur content less than 1.0% by weight burned in a coal stove.
- (B) All other materials are prohibited from being burned in a solid fuel burning device, including, but not limited to: garbage, treated pallets, treated lumber, fencing, treated wood, plastic and plastic products, rubber products, animal carcasses, asphaltic products, waste petroleum products, paints and chemicals, paper (other than an amount necessary to start a fire), or any substance that emits dense smoke or obnoxious odors when burned.

#### 506.7 AIR QUALITY BURN BANS

##### (A) Stage 1 Burn Ban

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

- (1) A Stage 1 Burn Ban may be called when forecasted meteorological conditions are predicted to cause PM<sub>2.5</sub> levels to reach or exceed 35 micrograms per cubic meter, measured on a 24-hour average, within 48 hours, except for areas of PM<sub>2.5</sub> nonattainment or areas at risk for PM<sub>2.5</sub> nonattainment.
- (2) For a county containing PM<sub>2.5</sub> nonattainment areas or areas at risk for PM<sub>2.5</sub> nonattainment, and, when feasible, only for the necessary portions of the county, a Stage 1 Burn Ban may be called when forecasted meteorological conditions are predicted to cause PM<sub>2.5</sub> levels to reach or exceed 30 micrograms per cubic meter, measured on a 24-hour average, within 72 hours.

##### (B) Stage 2 Burn Ban

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

- (1) A Stage 2 Burn Ban may be called when:
  - (a) A Stage 1 Burn Ban is already in effect and has not reduced the trend of rising PM<sub>2.5</sub> levels adequately;
  - (b) The 24-hour average of PM<sub>2.5</sub> levels have already reached or exceeded 25 micrograms per cubic meter; and
  - (c) Forecasted meteorological conditions are not expected to allow levels of PM<sub>2.5</sub> to decline below 25 micrograms per cubic meter for a period of 24 hours or more from the time that PM<sub>2.5</sub> is measured at the trigger level.
- (2) A Stage 2 Burn Ban may be called without first calling a Stage 1 Burn Ban only when all of the following occur:
  - (a) PM<sub>2.5</sub> levels have reached or exceeded 25 micrograms per cubic meter, measured on a 24-hour average;
  - (b) Meteorological conditions have caused PM<sub>2.5</sub> levels to rise rapidly;
  - (c) Meteorological conditions are predicted to cause PM<sub>2.5</sub> levels to exceed 35 micrograms per cubic meter, measured on a 24-hour average, within 24 hours; and
  - (d) Meteorological conditions are highly likely to prevent sufficient dispersion of PM<sub>2.5</sub>.
- (3) For a county containing PM<sub>2.5</sub> nonattainment areas or areas at risk for PM<sub>2.5</sub> nonattainment and, when feasible, only the necessary portions of the county, a Stage 2 Burn Ban may be called without first calling a Stage 1 Burn Ban only when NWCAA 506.7(B)(2)(a), (b), and (d) have been met and meteorological conditions are predicted to cause PM<sub>2.5</sub> levels to reach or exceed 30 micrograms per cubic meter, measured on a 24-hour average, within 24 hours.

(C) Air Pollution Episode Declared by Ecology

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

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

- (E) Smoke visible from a chimney, flue, or exhaust duct after 3 hours has elapsed from the time of declaration of a Stage 1 or Stage 2 Burn Ban or an air pollution episode shall constitute prima facie evidence of unlawful operation of a solid fuel burning device if that solid fuel burning device is restricted from operating under NWCAA 506.7(A), (B), and (C). This presumption may be refuted by demonstration that the smoke was not caused by a restricted solid fuel burning device.

#### 506.8 EXEMPTIONS

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

- (1) One-Time 10-Day Temporary Exemption

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

- (a) Full name,
- (b) Mailing address,
- (c) Telephone number,
- (d) The exemption under NWCAA 506.8(A)(2), (3), or (4) for which the applicant believes they qualify,
- (e) Physical address where the exemption applies,
- (f) Description of the habitable space for which the exemption is being requested,
- (g) A statement that the applicant has not previously requested such an exemption for the same physical address. Exceptions may be allowed for unrelated breakdowns of the primary heat source, and
- (h) A statement that all of the information provided is accurate.

- (2) Low Income

NWCAA may issue written low income exemptions. The applicant must demonstrate an economic need to burn solid fuel for residential space heating purposes by qualifying under the low

income energy assistance program (LIEAP) pursuant to economic guidelines established by the U.S. Office of Management and Budget.

(3) Temporary Breakdown of Primary Heat Source

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

- (a) A person in a residence or commercial establishment does not have an adequate source of heat without using a solid fuel burning device.
- (b) The applicant demonstrates that the primary heating system, other than a solid fuel burning device, is temporarily inoperable for reasons other than the applicant's own actions. When applying for this exemption, the applicant must submit a compliance schedule for bringing the primary heating system, other than a solid fuel burning device, back into operation to be used as the primary heating source. Unless otherwise approved by NWCAA, exemptions will be limited to 30 calendar days.

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

(4) No Adequate Source of Heat

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

- (a) The residence was constructed prior to July 1, 1992 and
- (b) A person in the residence does not have an adequate source of heat without using a solid fuel burning device.

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

(B) Exemption Duration and Renewals

Unless otherwise specified, written exemptions will expire June 30<sup>th</sup> of each year. Exemptions in NWCAA 506.8(A)(2), (3), and (4) may be renewed by NWCAA, provided the applicant meets the applicable requirements at the time of exemption renewal. For renewals under NWCAA 506.8(A)(2), the applicant must demonstrate the low income

status is met each time application is made. Exemption requests may be denied by NWCAA, regardless of the applicant's exemption history.

(C) Residential and Commercial Exemption Limitations

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

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

## **SECTION 508 - SPRAY COATING OPERATIONS**

### 508.1 PURPOSE

This section of the NWCAA Regulation establishes a program of work practice standards and controls for spray coating operations in order to reduce particulate emissions from coating overspray, lessen public exposure to toxic air pollutants, decrease emissions of precursors to the formation of tropospheric ozone, and encourage pollution prevention.

### 508.2 APPLICABILITY

- (A) This section applies to spray coating operations at a source and at portable spray coating operations except as provided in NWCAA 508.2(B).
- (B) This section does not apply to spray application of:
- (1) Architectural or maintenance coatings to stationary structures (e.g., bridges, water towers, buildings, stationary machinery, mobile homes, pavement/curbs, or similar structures).
  - (2) Maintenance coatings to farm equipment and mining equipment for which it is not practical or feasible to move to a dedicated spray coating facility.
  - (3) Asphaltic or plastic liners including undercoating, sound deadening coating, and spray-on truck bed liners.
  - (4) Fiberglass resin and gel coat.

### 508.3 DEFINITIONS



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

AIRLESS or AIR-ASSISTED AIRLESS SPRAY EQUIPMENT - Any paint spray technology that relies solely on the fluid pressure of the paint to create an atomized paint spray pattern and does not apply any atomizing compressed air to the paint before it leaves the paint nozzle. Air-assisted airless spray uses compressed air to shape and distribute the fan of atomized paint, but still uses fluid pressure to create the atomized paint.

COATING - A material or formulation of materials that is applied to or impregnated into a surface in order to beautify, protect, enhance the function, or otherwise cover the surface.

CONTAINER - An individual receptacle that holds a coating or coating component for storage or distribution.

ELECTROSTATIC APPLICATION - Application of coatings where an electrostatic potential is created between the part to be coated and the paint particles.

ENCLOSED SPRAY AREA – An enclosed area used for spray coating including, but not limited to, spray booth, preparation station, or portable enclosure.

HIGH VOLUME, LOW PRESSURE (HVLP) SPRAY EQUIPMENT - Equipment used to apply coatings by means of a spray gun that is designed and operated between 0.1 and 10.0 pounds per square inch gauge air pressure measured at the nozzle.

MOBILE EQUIPMENT - Any device that may be drawn and/or driven on a roadway including, but not limited to, heavy-duty trucks, truck trailers, fleet delivery trucks, buses, mobile cranes, bulldozers, street cleaners, agriculture equipment, motor homes, and other recreational vehicles (including camping trailers and fifth wheels).

OTHER SPRAY COATING – Spray coating of items other than complete motor vehicles and complete mobile equipment.

SPRAY COATING OPERATION – Application of coatings using a hand-held device that creates an atomized mist of coating and deposits the coating on a substrate. For the purposes of this section, a spray coating operation does not include the following materials or activities:

- (A) Use of air-brush spray equipment with a maximum cup capacity of 3 fluid ounces.
- (B) Use of aerosol spray cans.
- (C) Surface coating application using powder coating or non-atomizing application technology, including, but not limited to, paint brushes,

rollers, hand wiping, flow coating, dip coating, electrodeposition coating, web coating, coil coating, touch-up markers, or marking pens.

- (D) Thermal spray operations (also known as metallizing, flame spray, plasma arc spray, and electric arc spray, among other names) in which solid metallic or non-metallic material is heated to a molten or semi-molten state and propelled to the work piece or substrate by compressed air or other gas, where a bond is produced upon impact.

#### 508.4 GENERAL REQUIREMENTS FOR SPRAY COATING OPERATIONS

- (A) Except as in NWCAA 508.4(B), it shall be unlawful for any person subject to this section to cause or allow spray coating unless all of the following requirements are met as applicable:
  - (1) Enclosures. Except as in NWCAA 508.4(A)(1)(d) & (f), spray coating shall take place inside an enclosed spray area that is capable of capturing all visible paint overspray.
    - (a) Refinishing Complete Motor Vehicles and Complete Mobile Equipment. An enclosed spray area for refinishing complete motor vehicles and complete mobile equipment shall be one of the following:
      - (i) A negative pressure enclosure equipped with a full roof and four complete walls or complete side curtains and ventilated at a negative pressure so that air is drawn into any openings in the enclosed spray area, or
      - (ii) A positive pressure enclosure equipped with seals on all doors and other openings and an automatic pressure balancing system. The pressure balancing system shall be operated at a pressure not more than 0.05 inches water gauge positive pressure as measured by a functioning gauge that displays the pressure to the nearest 0.01 inches water column.
    - (b) Other Spray Coating. Except as in NWCAA 508.4(A)(1)(c) through (f), an enclosed spray area for other spray coating shall be equipped with a full roof, at least three complete walls or complete side curtains, and shall be ventilated at a negative pressure so that air is drawn into the enclosed spray area. The enclosed spray area may have openings, if needed, to allow for conveyors and parts to pass through the enclosed spray area during the spray coating process.
    - (c) Other Spray Coating in an Existing Enclosed Spray Area Located Outdoors. Enclosed spray areas used for other spray coating with complete three-walled/curtain and a full

roof located outdoors that are not equipped with a negative pressure ventilation system as of April 20, 2018 are not required to install such system provided the spray coating operation does not create a nuisance.

- (d) Other Spray Coating of Large Objects. Conducting other spray coating of large objects outside an enclosed spray area is allowed when it is impractical to totally enclose the large object, provided that reasonable precautions are employed to enclose the object to the extent practicable and to avoid creating a nuisance.
  - (e) Portable Other Spray Coating Operations. An enclosed spray area for a portable other spray coating operation shall be equipped with a frame-and-fabric shelter consisting of a fabric roof and three fabric sides or similar shelter.
  - (f) Inside Exhaust. An enclosed spray area is not required if the Department of Labor & Industries and fire protection agency with jurisdiction approve inside exhaust of spray coating operations.
- (2) Filtration. Except as in NWCAA 508.4(A)(1)(c) & (e), all enclosed spray areas shall employ either:
- (a) Water-wash curtains with a continuous water curtain to control the overspray or
  - (b) Properly-seated filter(s) that have a capture efficiency of at least 98 percent as described in NWCAA 508.4(A)(8)(c). A gauge shall be installed, operated, and maintained that displays the pressure drop across the filter(s). The acceptable pressure drop range shall be clearly marked on the gauge or posted next to the gauge. The enclosed spray area shall be operated such that the pressure drop across the filter(s) is within the acceptable range and the filter(s) are properly seated with no holes or tears.
- (3) Spray Application Methods. The spray application methods in NWCAA 508.4(A)(3)(a) shall be used for spray coating unless the exemption in NWCAA 508.4(A)(3)(b) applies.
- (a) Required Spray Application Methods.
    - (i) HVLP spray equipment;
    - (ii) Airless or air-assisted airless spray equipment;
    - (iii) Electrostatic application; or

- (iv) A method that has a transfer efficiency of 65% or higher using ASTM Standard D 5327-92 or a test method approved in writing by the NWCAA.
  - (b) If the required spray application methods under NWCAA 508.4(A)(3)(a) cannot be used in a certain situation, the situation is exempt from using a required spray application method provided that the facility maintains appropriate records (e.g., manufacturing specifications) to demonstrate that the required spray application methods cannot be used.
- (4) Vertical Unobstructed Exhaust Vent. Except as provided in NWCAA 508.4(A)(1)(c) & (e), emissions from an enclosed spray area shall be vented to the atmosphere through an unobstructed vertical exhaust vent. If the exhaust vent exits horizontally out of the side of the building, then the exhaust vent shall bend to vent vertically above the eave of the roof. There shall be no flow obstructions that will impede upward vertical flow of the exhaust.
- (5) Visible Emissions. Visible emissions from an enclosed spray area exhaust vent shall not exceed 0% opacity for more than an aggregate of 3 minutes in any consecutive 60-minute period as determined by Ecology Method 9A.
- (6) Equipment Cleanup. Spray guns shall be cleaned in an enclosed cleaning device or disassembled and cleaned in a container. Each gun cleaning device and container shall be kept closed when not in use. Guns and spray equipment must not atomize solvent into the air during cleanup.
- (7) Storage and Disposal. VOC-containing materials shall be kept in closed containers except when materials are actively being added or removed. Rags and paper towels contaminated with VOC-containing materials shall be collected immediately after use and kept in closed containers. Empty containers as defined in WAC 173-303-160 are exempt from this requirement.
- (8) Recordkeeping. All records required by this section shall be maintained onsite for at least 3 years from the date of generation and made available to NWCAA personnel upon request. Maintain the following records as applicable:
  - (a) Data Sheets. Environmental data sheets (EDS) or other data sheets that clearly indicate the contents of the spray coatings and solvents used.
  - (b) Usages. Records of total coating and solvent purchases or usages for the calendar year.

- (c) Filter Efficiency. For those facilities utilizing filter(s) pursuant to NWCAA 508.4(A)(2)(b), documentation that demonstrates the filter(s) being used have a capture efficiency of at least 98 percent. The procedure used to demonstrate filter efficiency must be consistent with the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Method 52.1, Method 52.2, or an alternate test method approved by the NWCAA in writing. Published filter efficiency data provided by filter vendors may be used to demonstrate compliance with this requirement.
  - (d) Filter Condition. For those facilities utilizing filter(s) pursuant to NWCAA 508.4(A)(2)(b), weekly observations of the filter(s) including: date, time, confirmation that filters are properly seated and in good condition, any corrective actions taken, and initials of person making the record. Weekly observations are not required for weeks that the enclosed spray area was not operated. Instead, the record must reflect the enclosed spray area was not in operation that week.
  - (e) Pressure Drop. For those facilities utilizing a pressure gauge pursuant to NWCAA 508.4(A)(1)(a)(ii) and/or NWCAA 508.4(A)(2)(b), weekly observations of pressure drop readings while operating including: date, time, pressure drop value, corrective action taken if the pressure drop is outside of the normal range (e.g., filter change), and initials of person making the record. Weekly observations are not required for weeks that the enclosed spray area was not operated. Instead, the record must reflect the enclosed spray area was not in operation that week.
  - (f) Disposal. Disposal records of waste materials, including volumes of waste solvents and coatings transferred to authorized waste haulers.
- (B) Compliance Date. Subject sources shall be in compliance with NWCAA 508.4(A)(1)(a) & (b), (A)(2), and (A)(4) by no later than October 12, 2020.

PASSED: September 13, 2018

## **SECTION 510 - INCINERATOR BURNING**

510.1 It shall be unlawful for any person to burn any refuse in any incinerator within the jurisdiction of the NWCAA except in an approved multiple chamber

incinerator or an equivalent design as defined in Section 200 and provided with an emission control facility, or in equipment found by the Control Officer, in advance of such use, to be equally effective for the purpose of air pollution control.

AMENDED: April 14, 1993

#### **SECTION 511 - REFUSE BURNING EQUIPMENT: TIME RESTRICTION**

- 511.1 It shall be unlawful for any person to cause or permit the operation of refuse burning equipment at any time other than daylight hours of the same day, except with the approval of the Control Officer.
- 511.2 Approval of the Control Officer for the operation of such equipment may be granted upon the submission of a written request stating:
- 511.21 The full name and address of the applicant; and
  - 511.22 The location of the refuse burning equipment; and
  - 511.23 A brief description of the refuse burning equipment and its control apparatus; and
  - 511.24 Good cause for the issuance of such approval; and
  - 511.25 The hours, other than daylight hours, during which the applicant seeks to operate the equipment; and
  - 511.26 The length of time for which the exception is sought.

PASSED: January 8, 1969 AMENDED: April 14, 1993

#### **SECTION 520 - SULFUR COMPOUNDS IN FUEL**

- 520.1 It shall be unlawful for any person to burn, sell, or make available for sale for burning in fuel burning equipment, or refuse burning equipment, within the jurisdiction of the NWCAA, any fuel containing a weight of sulfur in excess of that allowed by Subsection 520.11, 520.12, 520.13, 520.14 and 520.15.
- 520.11 Distillate fuel oil classified as Grade No. 1 (ASTM designation: D396-69) shall contain three tenths percent (0.3%) or less sulfur by weight.
  - 520.12 Distillate fuel oil classified as Grade No. 2 (ASTM Designation: D396-69) shall contain five-tenths percent (0.5%) or less sulfur by weight.
  - 520.13 All other grades or kinds of fuel oil intended for use in fuel oil burning equipment including ASTM Designation: D396-69 Grades No. 4, 5, and 6 shall contain two percent (2.0%) or less sulfur by weight.

520.14 Gaseous fuel shall contain 50 grains (412 ppm @ standard conditions) or less sulfur per 100 standard cubic feet except that this subsection shall not apply to those sources subject to Section 460.

520.15 Solid fuel (such as, but not limited to, coal, coke, and refuse) shall contain two percent (2.0%) or less sulfur by weight.

520.2 This section does not apply to:

- a. Ocean going vessels;
- b. Used oil burned in space heaters that have a maximum heat input of less than 0.4 million BTU/hr; and
- c. Persons in the business of collecting used oil from residences authorized by a city, county, or the Utilities and Transportation Commission.

AMENDED: April 14, 1993, May 11, 1995, May 9, 1996

### **SECTION 530 - GENERAL NUISANCE**

530.1 No person shall discharge from any source quantities of air contaminants, with the exception of odors as addressed in Section 535, in sufficient amounts and of such characteristics and duration as is likely to be injurious or cause damage to human health, plant or animal life, or property; or which unreasonably interferes with enjoyment of life and property.

PASSED: December 4, 1970 AMENDED: April 14, 1993, March 13, 1997, March 9, 2000

### **SECTION 535 - ODOR CONTROL MEASURES**

535.1 Appropriate practices and control equipment shall be installed and operated to reduce odor-bearing gasses emitted into the atmosphere to a reasonable minimum.

535.2 The Board or Control Officer may establish requirements that the building or equipment be enclosed and ventilated in such a way that odor-bearing gasses are effectively treated for removal or destruction of odorous matter or other air contaminants before emission to the atmosphere.

535.3 Any person who shall cause or allow the generation of any odor from any source which may unreasonably interfere with any other property owner's use and enjoyment of his or her property must use recognized best practices and control equipment to reduce these odors to a reasonable minimum.

535.4 Odor emissions detrimental to persons or property. No person shall cause or permit the emission of any odorous air contaminant from any source if it is detrimental to the health, safety, or welfare of any person, or causes damage to property or business.

PASSED: January 8, 1969 AMENDED: April 14, 1993, March 13, 1997, March 9, 2000

**SECTION 540 - EMISSION OF AIR CONTAMINANT: CONCEALMENT AND MASKING**

540.1 It shall be unlawful for any person to willfully cause or permit the installation or use of any device or use of any means which, without resulting in a reduction in the total amount of air contaminant emitted, conceals an emission of air contaminant which would otherwise violate the emission standards of this Regulation.

540.2 It shall be unlawful for any person to cause or permit the installation or use of any device or use of any means designed to mask the emission of an air contaminant which causes detriment to health, safety, or welfare of any person.

PASSED: January 8, 1969



**SECTION 550 - PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE**

- 550.1 The owner or operator of a source or activity that generates fugitive dust, including, but not limited to, material handling, building construction or demolition, abrasive blasting, roadways and lots, shall employ reasonable precautions to prevent fugitive dust from becoming airborne and must maintain and operate the source or activity to minimize emissions.
- 550.2 It shall be unlawful for any person to cause or allow the emission of particulate matter which becomes deposited upon the property of others 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.
- 550.3 For this section, reasonable precautions may include, but are not limited to:
- (A) Applying and reapplying water as necessary on materials and/or surfaces (e.g., access roads, etc.);
  - (B) Using enclosed conveyors, containment, and covered containers when handling and transferring materials;
  - (C) Covering loads when transporting material;
  - (D) Limiting vehicle speed on unpaved surfaces;
  - (E) Paving or installing quarry spalls at exit aprons;
  - (F) Cleaning vehicle tires and undercarriages before exiting to paved public roadways; and
  - (G) Promptly cleaning material that has been tracked out onto paved public roadways.

PASSED: January 8, 1969 AMENDED: February 14, 1973, August 9, 1978, October 14, 1987, April 14, 1993, November 12, 1999, July 14, 2005, September 11, 2014

**SECTION 560 - STORAGE OF ORGANIC LIQUID**

- 560.1 A person shall not place, store or hold in any stationary tank, reservoir or other container of more than 40,000 gallons, any petroleum liquids or a tank greater than 6,000 gallons capacity or greater containing other organic liquids or solvents having a True Vapor Pressure of 1.5 pounds per square inch or greater under actual storage conditions, unless such tank, reservoir or other container is a pressure tank maintaining working pressure sufficient at all times to prevent hydrocarbon vapor or gas loss to the atmosphere, or is designed and equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation:

- 560.11 A floating roof, consisting of a pontoon type or double-deck type roof, resting on the surface of the liquid contents and equipped with a closure seal, or seals, to close the space between the roof edge and tank wall. The control equipment provided for in this paragraph shall not be used if the gasoline or petroleum distillate has a True Vapor Pressure of 11.1 pounds per square inch or greater under actual storage conditions. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.
- 560.12 A vapor recovery system, consisting of a vapor gathering system capable of collecting the hydrocarbon vapors and gases discharged and a vapor disposal system capable of processing such hydrocarbon vapors and gases so as to prevent their emission to the atmosphere and with all tank gauging devices gas-tight except when gauging or sampling is taking place.
- 560.13 Other equipment of equal efficiency, provided such equipment is submitted to and approved by the Control Officer.

PASSED: February 14, 1973 AMENDED: August 8, 1978, April 14, 1993

## **SECTION 570 - ASBESTOS CONTROL STANDARDS**

570.1 The Board of Directors of the Northwest Clean Air Agency recognize that asbestos is a serious health hazard. Any asbestos fibers released into the air can be inhaled and can cause lung cancer, pleural mesothelioma, peritoneal mesothelioma or asbestosis. The Board has, therefore, determined that any asbestos emitted to the ambient air is air pollution. Because of the seriousness of the health hazard, the Board of Directors has adopted this regulation to control asbestos emissions from asbestos removal projects in order to protect the public health. In addition, the Board has adopted these regulations to coordinate with the EPA asbestos NESHAP, the OSHA asbestos regulation, the Washington Department of Labor and Industries asbestos regulations, the Washington Department of Ecology Dangerous Waste regulation, and the solid waste regulations of Island, Skagit and Whatcom Counties.

### 570.2 DEFINITIONS

AHERA BUILDING INSPECTOR - A person who has successfully completed the training requirements for a building inspector established by EPA Asbestos Model Accreditation Plan (40 CFR Part 763, Appendix C to Subpart E, I.B.3) and whose certification is current.

AHERA PROJECT DESIGNER - A person who has successfully completed the training requirements for an abatement project designer established by EPA regulations (40 CFR 763.90(g)) and whose certification is current.

ASBESTOS - The asbestiform varieties of actinolite, amosite (cummingtonite-grunerite), tremolite, chrysotile (serpentinite), crocidolite (riebeckite), or anthophyllite.

ASBESTOS-CONTAINING MATERIAL - Any material containing more than one percent asbestos as determined using the method specified in EPA regulations Appendix A, Subpart F, 40 CFR Part 763, Section I, Polarized Light Microscopy.

ASBESTOS-CONTAINING WASTE MATERIAL - Any waste that contains or is contaminated with asbestos-containing material. Asbestos-containing waste material includes asbestos waste from control equipment, materials used to enclose the work area during an asbestos project, asbestos-containing material collected for disposal, asbestos-contaminated waste, debris, containers, bags, protective clothing, or HEPA filters. Asbestos-containing waste material does not include samples of asbestos-containing material taken for testing or enforcement purposes.

ASBESTOS PROJECT - Any activity involving the abatement, renovation, demolition, removal, salvage, clean up, or disposal of asbestos-containing material, or any other action that disturbs or is likely to disturb any asbestos-containing material. It includes the removal and disposal of stored asbestos-containing material or asbestos-containing waste material. It does not include the application of duct tape, rewettable glass cloth, canvas, cement, paint, or other non-asbestos materials to seal or fill exposed areas where asbestos fibers may be released.

ASBESTOS SURVEY - A written report describing an inspection using the procedures contained in EPA regulations (40 CFR 763.86), or an alternate method that has received prior written approval from the Control Officer, to determine whether materials or structures to be worked on, renovated, removed, or demolished (including materials on the outside of structures) contain asbestos.

COMPETENT PERSON - A person who is capable of identifying asbestos hazards and selecting the appropriate asbestos control strategy, has the NWCAA to take prompt corrective measures to eliminate them, and has been trained and is currently certified in accordance with the standards established by the Washington State Department of Labor & Industries, the federal Occupational Safety & Health Administration, or the United States Environmental Protection Agency (whichever agency has jurisdiction).

COMPONENT - Any equipment, pipe, structural member, or other item covered or coated with, or manufactured from, asbestos-containing material.

DEMOLITION - Wrecking, razing, leveling, dismantling, or burning of a structure, making all or part of the structure permanently uninhabitable or unusable.

FRIABLE ASBESTOS-CONTAINING MATERIAL - Asbestos-containing material that, when dry, can be crumbled, disintegrated, or reduced to powder by hand pressure or by the forces expected to act upon the material in the course of demolition, renovation, or disposal. Such materials include, but are not limited to, thermal system insulation, surfacing material, and cement asbestos products.

LEAK-TIGHT CONTAINER - A dust-tight and liquid-tight container, at least 6-mil thick, that encloses asbestos-containing waste material and prevents solids or liquids from escaping or spilling out. Such containers may include sealed plastic bags, metal or fiber drums, and sealed polyethylene plastic.

NONFRIABLE ASBESTOS-CONTAINING MATERIAL - Asbestos-containing material that, when dry, cannot be crumbled, disintegrated, or reduced to powder by hand pressure or by the forces expected to act on the material in the course of demolition, renovation, or disposal.

OWNER-OCCUPIED, SINGLE-FAMILY RESIDENCE - Any non-multiple unit building containing space for uses such as living, sleeping, preparation of food, and eating that is currently used by one family who owns the property as their primary or seasonal residence. This term includes houses, mobile homes, trailers, detached garages, houseboats, and houses with a "mother-in-law apartment" or "guest room". This term does not include rental property or multiple-family units, nor does this term include any mixed-use building, structure, or installation that contains a residential unit.

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

RENOVATION - Altering a facility or a component in any way, except demolition.

SURFACING MATERIAL - Material that is sprayed-on, troweled-on, or otherwise applied to surfaces including, but not limited to, acoustical plaster on ceilings, paints, fireproofing materials on structural members, or other materials on surfaces for decorative purposes.

SUSPECT ASBESTOS-CONTAINING MATERIAL - Material that has historically contained asbestos including, but not limited to, surfacing material, thermal system insulation, roofing material, fire barriers, gaskets, flooring material, and siding.

THERMAL SYSTEM INSULATION - Material applied to pipes, fittings, boilers, tanks, ducts, or other structural components to prevent heat loss or gain.

### 570.3 ASBESTOS SURVEY REQUIREMENTS

#### (A) Requirements for Renovations

It shall be unlawful for any person to cause or allow a renovation unless the property owner or the owner's agent determines whether there are suspect asbestos-containing materials in the work area and obtains an asbestos survey of any suspect asbestos-containing materials by an AHERA building inspector. An AHERA building inspector is not required for asbestos surveys associated with the renovation of an owner-occupied, single-family residence.

- (1) If there are no suspect materials in the work area, this determination shall either be posted at the work site or communicated in writing to all contractors involved in the renovation.
- (2) It is not required that an AHERA building inspector evaluate any material presumed to be asbestos-containing material.
- (3) Except for renovations of an owner-occupied, single-family residence, only an AHERA building inspector may determine that a suspect material does not contain asbestos.
- (4) A summary of the results of the asbestos survey shall either be posted by the property owner or the owner's agent at the work site or communicated in writing to all persons who may come into contact with the material.

(B) Requirements for Demolitions

It shall be unlawful for any person to cause or allow any demolition unless the property owner or the owner's agent obtains an asbestos survey by an AHERA building inspector of the structure to be demolished.

- (1) It is not required that an AHERA building inspector evaluate any material presumed to be asbestos-containing material.
- (2) Only an AHERA building inspector may determine that a suspect material does not contain asbestos.
- (3) A summary of the results of the asbestos survey shall either be posted by the property owner or the owner's agent at the work site or communicated in writing to all persons who may come into contact with the material.

570.4 NOTIFICATION REQUIREMENTS

(A) General Requirements

It shall be unlawful for any person to cause or allow any work on an asbestos project or demolition unless a complete notification, including the required fee and any additional information requested by the Control Officer, has been submitted to the NWCAA on approved forms, in accordance with the advance notification period requirements contained in 570.4(D) of this Regulation.

- (1) The duration of an asbestos project shall be commensurate with the amount of work involved.

- (2) Notification is not required for asbestos projects involving less than 10 linear feet or 48 square feet (per structure, per calendar year) of any asbestos-containing material.
- (3) Notification is not required for removal and disposal of the following nonfriable asbestos-containing materials: caulking, window glazing, or roofing. All other asbestos project and demolition requirements remain in effect except as provided by Section 570.
- (4) Notification is required for all demolitions of structures with a greater than 120 square feet footprint even if no asbestos-containing material is present. All other demolition requirements remain in effect.
- (5) The written notification shall be accompanied by the appropriate nonrefundable fee as set forth in 324.8 of this Regulation unless prior arrangements for payment have been made with the NWCAA.
- (6) A copy of the notification, all amendments to the notification, the asbestos survey, and any Order of Approval for an alternate means of compliance shall be available for inspection at all times at the asbestos project or demolition site.
- (7) Notification for multiple asbestos projects or demolitions may be filed by a property owner on one form if all the following criteria are met:
  - (a) The work will be performed continuously by the same contractor; and
  - (b) A work plan is submitted that includes: a map of the structures involved in the project including the site address for each structure; the amount and type of asbestos-containing material in each structure; and the schedule for performing asbestos project and demolition work. For projects where a detailed work schedule cannot be provided the asbestos contractor and/or the demolition contractor shall participate in the NWCAA's work schedule fax program and will continue to participate in the program throughout the duration of the project.
- (8) Annual Notification

A property owner may file one annual notification for asbestos projects to be conducted on one or more structures, vessels, or buildings during each calendar year if all of the following conditions are met:

- (a) The annual notification shall be filed with the NWCAA before commencing work on any asbestos project included in an annual notification;
- (b) The total amount of asbestos-containing material for all asbestos projects from each structure, vessel, or building in a calendar year under this section is less than 260 linear feet on pipes or less than 160 square feet on other components; and
- (c) The property owner submits quarterly written reports to the Control Officer on NWCAA-approved forms within 15 days after the end of each calendar quarter.

(B) Mandatory Amendments

An amendment shall be submitted to the Control Officer for the following changes in a notification:

- (1) Increases in the project type or job size category that increase the fee or change the advance notification period;
- (2) Changes in the type of asbestos-containing material that will be removed; or
- (3) Changes in the start date, completion date, or work schedule, including hours of work. Asbestos contractors or property owners participating in the NWCAA work schedule fax program are not required to submit amendments for work schedule changes occurring between the start and completion dates.

(C) Emergencies

The Control Officer may waive the advance notification period, if the property owner submits a written request that demonstrates to the Control Officer that an asbestos project or demolition must be conducted immediately because of any of the following:

- (1) There was a sudden, unexpected event that resulted in a public health or safety hazard;
- (2) The project must proceed immediately to protect equipment, ensure continuous vital utilities, or minimize property damage;
- (3) Asbestos-containing materials were encountered that were not identified during the asbestos survey; or
- (4) The project must proceed to avoid imposing an unreasonable burden.

(D) Notification Period

Project	Notification Period
Asbestos Project Residential – Owner-Occupied –Single Family Residence 10 - 259 linear feet or 48 - 159 square feet)* 260 - 999 linear feet or 160 - 4999 square feet > 1000 linear feet or > 5000 square feet)	Prior Notice 3 days 10 days 10 days
Demolitions with no Asbestos Project	10 days
Emergency Classification (NWCAA 570.4(C))	Prior Notice
Amendments (NWCAA 570.4(B))	Prior Notice
Annual Notification (NWCAA 570.4(A)(8))	Prior Notice

\*Demolitions with asbestos projects involving less than 10 linear feet or less than 48 square feet may submit an asbestos project notification under this project category and will be eligible for the 3-day notification period.

The Control Officer may waive the notification period, by written authorization, for disposal of unused and intact or abandoned (without the knowledge or consent of the property owner) asbestos-containing materials. All other asbestos project and demolition requirements remain in effect.

**570.5 ASBESTOS REMOVAL REQUIREMENTS PRIOR TO RENOVATION OR DEMOLITION**

**(A) Removal of Asbestos Prior to Renovation or Demolition**

Except as provided in 570.6(C) of this Regulation, it shall be unlawful for any person to cause or allow any demolition or renovation that may disturb asbestos-containing material or damage a structure so as to preclude access to asbestos-containing material for future removal, without first removing all asbestos-containing material in accordance with the requirements of this regulation. Asbestos-containing material need not be removed from a component if the component can be removed, stored, or transported for reuse without disturbing or damaging the asbestos.

**(B) Exception for Hazardous Conditions**

Asbestos-containing material need not be removed prior to a demolition, if the property owner demonstrates to the Control Officer



that it is not accessible because of hazardous conditions such as: structures or buildings that are structurally unsound and in danger of imminent collapse, or other conditions that are immediately dangerous to life and health. The property owner must submit the written determination of the hazard by an authorized government official or a licensed structural engineer, and must submit the procedures that will be followed for controlling asbestos emissions during the demolition or renovation and disposal of the asbestos-containing waste material.

#### 570.6 PROCEDURES FOR ASBESTOS PROJECTS

##### (A) Training Requirements

It shall be unlawful for any person to cause or allow any work on an asbestos project unless it is performed by persons trained and certified in accordance with the standards established by the Washington State Department of Labor and Industries, the federal Occupational Safety and Health Administration, or the United States Environmental Protection Agency (whichever agency has jurisdiction) and whose certification is current. This certification requirement does not apply to individuals who work on asbestos projects on their own single family residence(s), no part of which is used for any commercial purpose.

##### (B) Asbestos Removal Work Practices

Except as provided in 570.6(C) of this Regulation, it shall be unlawful for any person to cause or allow the removal of asbestos-containing material unless all the following requirements are met:

- (1) The asbestos project shall be conducted in a controlled area, clearly marked by barriers and asbestos warning signs. Access to the controlled area shall be restricted to authorized personnel only.
- (2) If a negative pressure enclosure is employed it shall be equipped with transparent viewing ports, if feasible, and shall be maintained in good working order.
- (3) Absorbent, asbestos-containing materials, such as surfacing material and thermal system insulation, shall be saturated with a liquid wetting agent prior to removal. Any unsaturated, absorbent, asbestos-containing materials exposed during removal shall be immediately saturated with a liquid wetting agent.
- (4) Nonabsorbent, asbestos-containing materials, such as cement asbestos board or vinyl asbestos tile, shall be continuously coated with a liquid wetting agent on any exposed surface prior to and during removal. Any dry surfaces of nonabsorbent,

asbestos-containing materials exposed during removal shall be immediately coated with a liquid wetting agent.

- (5) Metal components (such as valves, fire doors, and reactor vessels) that have internal asbestos-containing material are exempt from the requirements of 570.6(B)(3) and 570.6(B)(4) if all access to the asbestos-containing material is welded shut or the component has mechanical seals, which cannot be removed by hand, that separate the asbestos-containing material from the environment.
  - (6) Except for surfacing materials being removed inside a negative pressure enclosure, asbestos-containing materials that are being removed, have been removed, or may have fallen off components during an asbestos project shall be carefully lowered to the ground or a lower floor, not dropped, thrown, slid, or otherwise damaged.
  - (7) All asbestos-containing waste material shall be sealed in leak-tight containers as soon as possible after removal but no later than the end of each work shift.
  - (8) All absorbent, asbestos-containing waste material shall be kept saturated with a liquid wetting agent until sealed in leak-tight containers while saturated with a liquid wetting agent. All nonabsorbent, asbestos-containing waste material shall be kept coated with a liquid wetting agent until sealed in leak-tight containers while coated with a liquid wetting agent.
  - (9) The exterior of each leak-tight container shall be free of all asbestos residue and shall be permanently labeled with an asbestos warning sign as specified by the Washington State Department of Labor and Industries or the federal Occupational Safety and Health Administration.
  - (10) Immediately after sealing, each leak-tight container shall be permanently marked with the date the material was collected for disposal, the name of the waste generator, and the address at which the waste was generated. This marking must be readable without opening the container.
  - (11) Leak-tight containers shall not be dropped, thrown, slid, or otherwise damaged.
  - (12) The asbestos-containing waste material shall be stored in a controlled area until transported to an approved waste disposal site.
- (C) Method of Removal for Nonfriable Asbestos-Containing Roofing Material

The following asbestos removal method shall be employed for asbestos-containing roofing material that has been determined to be nonfriable by a Competent Person or an AHERA Project Designer:

- (1) The nonfriable asbestos-containing roofing material shall be removed using methods such as spud bar and knife. Removal methods such as sawing or grinding shall not be employed;
- (2) Dust control methods shall be used as necessary to assure no fugitive dust is generated from the removal of nonfriable asbestos-containing roofing material;
- (3) Nonfriable asbestos-containing roofing material shall be carefully lowered to the ground to prevent fugitive dust;
- (4) After being lowered to the ground, the nonfriable asbestos-containing roofing material shall be immediately transferred to a disposal container; and
- (5) Each disposal container shall have a sign identifying the material as nonfriable asbestos-containing roofing material.

#### 570.7 COMPLIANCE WITH OTHER RULES

Other government agencies have adopted rules that may apply to asbestos projects regulated under these rules including, but not limited to, the U.S. Environmental Protection Agency, the Occupational Safety and Health Administration, and the Department of Labor and Industries. Nothing in the Agency's rules shall be construed as excusing any person from complying with any other applicable local, state, or federal requirement.

#### 570.8 DISPOSAL OF ASBESTOS-CONTAINING WASTE MATERIAL

- (A) Except as provided in 570.8(C) of this Regulation, it shall be unlawful for any person to cause or allow the disposal of asbestos-containing waste material unless it is deposited within 10 days of removal at a waste disposal site authorized to accept such waste.
- (B) Waste Tracking Requirements

It shall be unlawful for any person to cause or allow the disposal of asbestos-containing waste material unless the following requirements are met:

- (1) Maintain waste shipment records, beginning prior to transport, using a form that includes the following information:
  - (a) The name, address, and telephone number of the waste generator;
  - (b) The approximate quantity in cubic meters or cubic yards;

- (c) The name and telephone number of the disposal site operator;
  - (d) The name and physical site location of the disposal site;
  - (e) The date transported;
  - (f) The name, address, and telephone number of the transporter; and
  - (g) A certification that the contents of the consignment are fully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition to transport by highway according to applicable international and government regulations.
- (2) Provide a copy of the waste shipment record to the disposal site at the same time the asbestos-containing waste material is delivered.
  - (3) If a copy of the waste shipment record, signed by the owner or operator of the disposal site, is not received by the waste generator within 35 calendar days of the date the waste was accepted by the initial transporter, contact the transporter and/or the owner or operator of the disposal site to determine the status of the waste shipment.
  - (4) If a copy of the waste shipment record, signed by the owner or operator of the disposal site, is not received by the waste generator within 45 days of the date the waste was accepted by the initial transporter, report in writing to the Control Officer. Include in the report, a copy of the waste shipment record and a cover letter signed by the waste generator explaining the efforts taken to locate the asbestos waste shipment and the results of those efforts.
  - (5) Retain a copy of all waste shipment records, including a copy of the waste shipment record signed by the owner or operator of the designated waste disposal site, for at least 2 years.
- (C) Temporary Storage Site

A person may establish a facility for the purpose of collecting and temporarily storing asbestos-containing waste material if the facility is approved by the Control Officer and all the following conditions are met:

- (1) Accumulated asbestos-containing waste material shall be kept in a controlled storage area posted with asbestos warning signs and accessible only to authorized persons;
  - (2) All asbestos-containing waste material shall be stored in leak-tight containers and the leak-tight containers shall be maintained in good condition;
  - (3) The storage area must be locked except during transfer of asbestos-containing waste material; and
  - (4) Storage, transportation, disposal, and return of the waste shipment record to the waste generator shall not exceed 90 days.
- (D) Disposal of Asbestos Cement Pipe

Asbestos cement pipe used on public right-of-ways, public easements, or other places receiving the prior written approval of the Control Officer may be buried in place if the pipe is covered with at least 3 feet or more of non-asbestos fill material. All asbestos cement pipe fragments that are 1 linear foot or less and other asbestos-containing waste material shall be disposed of at a waste disposal site authorized to accept such waste.

PASSED: November 12, 1998 AMENDED: July 14, 2005, November 8, 2007, September 11, 2014

## **SECTION 580 - VOLATILE ORGANIC COMPOUND CONTROL**

580.1 The Board of Directors has noted the measurement of ozone concentrations (one hour ave.) nearing the Federal ambient standard at the northern and southern boundaries of the NWCAA jurisdiction. The expanding population and the presence of four large refineries contribute volatile organic compound (VOC) emissions to the atmosphere. Photochemically reactive VOC's are precursors to ozone formation. In order to maintain the current attainment status for ozone, the Board has adopted specific measures to control VOC emissions. Reasonable Available Control Technology (RACT) is required for existing refinery operations, gasoline marketing, and in the use of cutback asphalt. RACT is defined as the lowest emission limit that a particular source is capable of meeting by the application of control that is reasonably available considering technological and economic feasibility.

PASSED: December 13, 1989 AMENDED: April 14, 1993, October 13, 1994, February 8, 1996, May 14, 2020

### SECTION 580.2 - Petroleum Refineries

- 580.21 This section shall apply to all petroleum refineries with a crude oil or feed stock capacity greater than three hundred eighteen thousand liters (2,000 barrels) per day.
- 580.22 It shall be unlawful for any person to cause or allow the disposal of VOC from the vacuum producing systems covered under this subsection except as follows:
- 580.221 Noncondensable VOC shall be piped to an appropriate firebox, incinerator or to a closed refinery system.
  - 580.222 Hot wells associated with contact condensers shall be tightly covered and the collected VOC introduced into a closed refinery system.
- 580.23 It shall be unlawful for any person to cause or allow the operation of a wastewater separator with annual VOC emissions estimated by the NWCAA to exceed 25 tons, when such operation does not comply as follows:
- 580.231 Wastewater separator forebays shall incorporate a floating pontoon or fixed solid cover with all openings sealed totally enclosing the compartmented liquid contents, or a floating pontoon or a double deck-type cover equipped with closure seals between the cover edge and compartment wall. Collected vapors shall not be discharged to the atmosphere.
  - 580.232 Accesses for gauging and sampling shall be designed to minimize VOC emissions during actual use. All access points shall be closed with suitable covers when not in use.
- 580.24 It shall be unlawful for any person to cause or allow a process unit turnaround which does not comply with the following conditions:
- 580.241 The VOC contained in a process unit to be depressurized for turnaround shall be introduced to a closed refinery system, combusted by a flare, or vented to a disposal system.
  - 580.242 The VOC pressure in a process unit following depressurization for turnaround shall be less than five pounds per square inch gauge (psig) before venting to the ambient air.
  - 580.243 The owner or operator shall keep a record of each process unit turnaround not in compliance with 580.242.
  - 580.244 The owner or operator shall keep a record of each process unit turnaround listing the date the unit was shut down, the estimated vessel VOC concentration when the VOC was first emitted, and the estimated total quantity of VOC emitted.

- 580.25 Equipment for the reduction, collection or disposal of VOC shall be maintained and operated in a manner commensurate with accepted industrial practices.
- 580.26 Any petroleum refinery process unit, storage facility or other operation (including drains) subject to federal VOC or HAP standards (NSPS, Benzene Waste NESHAP, Petroleum Refinery NESHAP, etc.) is exempt from the requirements of NWCAA 580.3 through NWCAA 580.10. Such exemption shall take effect upon the date of required compliance with the federal standard.

PASSED: December 13, 1989 AMENDED: February 8, 1996

### 580.3 High Vapor Pressure Volatile Organic Compound Storage Tanks

- 580.31 Subsections 580.32 through 580.37 shall apply to all tanks which store volatile organic compounds with a true vapor pressure as stored greater than 10.5 kilopascals (Kpa) 1.5 pounds per square inch (psia), but less than 77.7 Kpa (11.1 psia) at calendar-month average storage temperatures and have a capacity greater than one hundred fifty thousand liters (40,000 gallons).
- 580.32 It shall be unlawful for any person to cause or allow storage of volatile organic compounds as specified in Section 580.31 unless each storage tank or container:
  - 580.321 Meets the equipment specifications and maintenance requirements of the Federal Standards of Performance for New Stationary Sources -Storage Vessels for Petroleum Liquids (40 CFR 60, subpart Kb); or
  - 580.322 Is retrofitted with a floating roof or internal floating cover using a metallic seal or a nonmetallic resilient seal at least meeting the equipment specifications of the Federal standards referred to in 580.321 of this subsection, or its equivalent; or
  - 580.323 Is fitted with a floating roof or internal floating cover meeting manufacturers equipment specifications in effect when it was installed.
- 580.33 All seals used with equipment subject to this section are to be maintained in good operating condition and the seal fabric shall contain no visible holes, tears or other openings.
- 580.34 All openings not related to safety are to be sealed with suitable closures.

- 580.35 Tanks used for the storage of gasoline in bulk gasoline plants and equipped with vapor balance systems as required in 580.52 shall be exempt from the requirements of this section.
- 580.36 All tanks not exempted by subsection 580.26 shall meet the monitoring, recordkeeping and reporting requirements of 40 CFR 60 Subpart Kb, with the exception of the monitoring report submittal requirements of 60.115b(b)(2). Compliance with subsection 580.36 shall be no later than December 31, 1999.
- 580.37 All tanks exempt by subsection 580.26 and all tanks subject to Section 580.3 or 580.9 shall be exempt from Section 560 of this Regulation.
- 580.38 All tanks storing volatile organic compounds with a true vapor pressure greater than 77.7 kPa (11.1 psia) shall be equipped with a vapor recovery system.

PASSED: December 13, 1989 AMENDED: May 14, 1998, November 12, 1998

#### 580.4 Gasoline Loading Terminals

- 580.41 Section 580.42 shall apply to all gasoline loading terminals with an annual gasoline throughput greater than twenty-seven million three hundred thousand liters (7,200,000 gallons).
- 580.42 It shall be unlawful for any person to cause or allow the loading of gasoline into any transport tank unless all the following conditions are met:
  - 580.421 The loading terminal shall employ submerged loading or bottom loading and be equipped with a vapor control system.
  - 580.422 All loading lines and vapor lines shall be equipped with vapor-tight fittings which close automatically upon disconnect. The point of closure shall be on the tank side of any hose or immediate connecting line.
  - 580.423 All vapor return lines shall be connected between the transport tank and the vapor control system such that all displaced volatile organic compounds are vented to the vapor control system.
  - 580.424 The vapor control system shall prevent the emission of at least 90 percent by weight of the volatile organic compounds and shall limit the emission of volatile organic compounds to no more than 10 milligrams per liter of gasoline transferred. Compliance shall be demonstrated biennially by conducting emission testing according to EPA Method 25 or another method approved by the Control Officer. Thirty days advance notification is required.



- 580.425 The vapor control system shall be equipped with an appropriate alarm system to alert personnel when the system is not in compliance with 580.424. Prior approval by the Control Officer is required.
- 580.426 All loading arms shall be designed, maintained and operated to prevent overfill, prevent fugitive liquid or vapor leaks, and prevent excess gasoline drainage during disconnect in accordance with the requirements of 580.10.

PASSED: December 13, 1989 AMENDED: June 14, 2001

## 580.5 Bulk Gasoline Plants

580.51 Section 580.5 shall apply to all gasoline bulk plants.

580.511 It shall be unlawful for any person to cause or allow the storage of gasoline in tanks with a capacity of two thousand one hundred liters (550 gallons) or greater unless such storage is in tanks meeting the following conditions:

580.5111 Each storage tank shall be equipped with a submerged fill line.

580.512 It shall be unlawful for any person to cause or allow transfer of gasoline between a storage tank and a transport tank except under the following condition:

580.5121 All transport tanks shall be submerged filled or bottom loaded.

580.52 Section 580.52 shall apply to all bulk gasoline plants with an annual gasoline throughput greater than seven million six hundred thousand liters (2,000,000 gallons).

580.521 It shall be unlawful for any person to cause or allow the storage of gasoline in tanks with a capacity of two thousand one hundred liters (550 gallons) or greater unless such storage is in tanks meeting the following conditions.

580.5211 Each storage tank shall be equipped for vapor balancing of gasoline vapors with transport tanks during gasoline transfer operations.

580.5212 The vapor line fittings on the storage tank side of break points with the transport tank vapor connection pipe or hose shall be equipped to close automatically upon planned or unintentional disconnect.

- 580.5213 The pressure relief valves on storage tanks shall be set at the highest possible pressure consistent with local and state codes for fire and safety.
- 580.522 Except as provided in 580.523 of this section, it shall be unlawful for any person to cause or allow the transfer of gasoline into or out of any transport tank at a bulk gasoline plant unless said transfer is in compliance with the following conditions:
- 580.5221 The transport tank shall be equipped with the proper attachment fittings to make vapor-tight connections for vapor balancing with storage tanks; and
- 580.5222 The vapor line fittings on the transport tank side of break points with the storage tank connection pipe or hose shall be equipped to close automatically upon planned or unintentional disconnect; and
- 580.5223 The pressure relief valves on transport tanks shall be set at the highest possible pressure consistent with local and state codes for fire and safety.
- 580.523 The vapor line fittings on the storage tank side of break points with the transport tank vapor connection pipe or hose shall be equipped to close automatically upon planned or unintentional disconnect.
- 580.5231 The transport tank is used exclusively for the delivery of gasoline into storage tanks of a facility exempt from the vapor balance requirements of 580.6; and
- 580.5232 The transport tank has a total capacity less than fifteen thousand liters (4,000 gallons) and is of a compartmented design and construction requiring the installation of four or more separate vapor balance fittings.
- 580.524 The pressure relief valves on storage tanks shall be set at the highest possible pressure consistent with local and state codes for fire and safety.
- 580.5241 The loading of all transport tanks, exempted under 580.523 of this section, shall be performed such that at least ninety percent by weight of the gasoline vapors displaced during filling are prevented from being released into the ambient air; providing that emissions from pressure relief valves shall not be included in the controlled emissions. This emission limitation will be met by vapor balancing in compliance with all provisions of this section.

- 580.525 It shall be unlawful for any person to cause or allow continued transfer of gasoline at any transfer point following occurrence of failure or leakage in any part of the vapor balance system, provided that occurrence of failure or leakage during loading or unloading of a transport tank shall not prevent the complete loading or unloading of the tank.
- 580.526 It shall be unlawful for any person to cause or permit the operation of a bulk gasoline plant or a transport tank without taking reasonable necessary measures to prevent the spilling, discarding in sewers, storing in open containers or handling of gasoline in a manner on the plant site that will result in evaporation to the ambient air.
- 580.53 Except as provided in 580.54 of this section, it shall be unlawful for any person to cause or allow the transfer of gasoline into or out of any transport tank at a bulk gasoline plant unless said transfer is in compliance with the following conditions:
- 580.531 The transport tank shall be equipped with the proper attachment fittings to make vapor-tight connections for vapor balancing with storage tanks; and
- 580.532 The vapor line fittings on the transport tank side of break points with the storage tank connection pipe or hose shall be equipped to close automatically upon planned or unintentional disconnect; and
- 580.533 The pressure relief valves on transport tanks shall be set at the highest possible pressure consistent with local and state codes for fire and safety.
- 580.54 Transport tanks used for gasoline shall be exempt from the requirement to be equipped with any attachment fitting for vapor balance lines, provided the following conditions are met:
- 580.541 The transport tank is used exclusively for the delivery of gasoline into storage tanks of a facility exempt from the vapor balance requirements of 580.6; and
- 580.542 The transport tank has a total capacity less than fifteen thousand liters (4,000 gallons) and is of a compartmented design and construction requiring the installation of four or more separate vapor balance fittings.
- 580.55 It shall be unlawful for any person to cause or allow transfer of gasoline between a storage tank and a transport tank except under the following conditions:

580.551 The loading of all transport tanks, except those exempted under 580.54 of this section, shall be performed such that ninety percent by weight of the gasoline vapors displaced during filling are prevented from being released into the ambient air; providing that emissions from pressure relief valves shall not be included in the controlled emissions. This emission limitation will be met by vapor balancing in compliance with all provisions of this section.

580.56 It shall be unlawful for any person to cause or allow continued transfer of gasoline at any transfer point following occurrence of failure or leakage in any part of the vapor balance system, provided that occurrence of failure or leakage during loading or unloading of a transport tank shall not prevent the complete loading or unloading of the tank.

580.57 It shall be unlawful for any person to cause or permit the operation of a bulk gasoline plant or a transport tank without taking reasonable necessary measures to prevent the spilling, discarding in sewers, storing in open containers or handling of gasoline in a manner on the plant site that will result in evaporation to the ambient air.

PASSED: February 14, 1990

#### 580.6 GASOLINE DISPENSING FACILITIES

(A) NWCAA 580.6(B) shall apply to all gasoline dispensing facilities (GDF) with an annual 12-consecutive month gasoline throughput equal to or greater than 120,000 gallons.

(B) It shall be unlawful for any person to cause or allow the transfer of gasoline from any transport tank into any stationary storage tank, except as provided in NWCAA 580.6(C), unless all of the following conditions are met:

(1) Such stationary storage tank is equipped with a permanent submerged or bottom loading fill line and a vapor recovery system.

(2) Vapor recovery system equipment, including, but not limited to, caps, adaptors, drain valves, and poppets, shall be installed and maintained to be vapor tight and in good working order.

(3) Such transport tank is equipped with a vapor balance system and is maintained in a vapor-tight condition in accordance with NWCAA 580.10.

- (4) All vapor return lines are connected between the transport tank and the stationary storage tank and the vapor recovery system is functional and operating during loading.
- (C) The following stationary gasoline storage tanks are exempt from the requirements of 580.6(A), (B), (D), and (F):
  - (1) All tanks with a capacity less than 2,000 gallons installed before January 1, 1990.
  - (2) All tanks with offset fill lines installed before January 1, 1990.
  - (3) All tanks with a capacity less than 264 gallons.
- (D) Except for gasoline storage tanks specified in NWCAA 580.6(C), all gasoline tank vent pipes at gasoline dispensing facilities shall be equipped with properly functioning pressure vacuum vent (PV) caps.
- (E) All gasoline storage tanks at gasoline dispensing facilities shall be maintained in a vapor-tight condition and in good working order. This includes, but is not limited to, caps, adaptors, and drain valves.
- (F) All gasoline dispensing facilities that have Stage I vapor recovery shall conduct static pressure decay tests on all gasoline storage tanks, except those specified in NWCAA 580.6(C).
  - (1) The static pressure decay tests shall be conducted on the following frequency unless more frequent testing is required by an Order of Approval or General Order of Approval:

GDF Throughput	Frequency
30,000 to 119,999 gal/yr	Every 5 calendar years
120,000 to 1,200,000 gal/yr	Every 3 calendar years
> 1,200,000 gal/yr	Every calendar year

- (2) The pressure decay tests shall be conducted in accordance with California Air Resources Board (CARB) TP-201.3 (dated 7/26/12) for underground storage tanks and CARB TP-201.3B (dated 4/12/96) for above ground tanks, or test procedures that have been approved by CARB as equivalent.
- (3) Any person conducting a compliance test must be certified by the International Code Council or other association approved by the NWCAA in writing.
- (4) Failed Compliance Tests. If the defective gasoline dispensing facility equipment cannot be repaired within 14 calendar days of failing a test, the owner or operator must stop receiving and/or dispensing gasoline from the defective equipment until it is repaired and retested, and passes all required compliance tests.

(5) Test Reports

- (a) The owner or operator shall submit a written test report to the NWCAA within 30 calendar days after the testing has been completed that includes the following information:
  - (i) Identification of the facility,
  - (ii) Name and address of the person(s) who conducted each test,
  - (iii) Current certification credential information for each person who conducted each test,
  - (iv) Date of each test,
  - (v) Equipment tested,
  - (vi) Test procedures or methods used,
  - (vii) Results of each test conducted (pass/fail), and
  - (viii) Any maintenance, repairs, or corrective actions taken necessary to pass the tests.
- (b) Owners or operators shall keep a copy of all test reports on-site for at least 5 years after the date of testing that shall be made available for inspection upon request.

PASSED: February 14, 1990 AMENDED: April 14, 1993, October 13, 1994, March 13, 1997, May 14, 1998, November 12, 1998, September 13, 2018

580.7 Cutback Asphalt Paving

- 580.71 After June 1, 1990, it shall be unlawful for any person to cause or allow the use of cutback asphalt in paving during the months of June, July, August and September, except as provided for in 580.72 of this section.
- 580.72 The following paving uses and applications of cutback asphalts are permitted during all months of the year;
  - 580.721 As a penetrating prime coat on aggregate bases prior to paving.
  - 580.722 The manufacture of patching mixes used exclusively for pavement maintenance and needed to be stockpiled for times longer than one month.
  - 580.723 All paving uses when the temperature during application is below 10 °C (50 °F).

PASSED: December 13, 1989 AMENDED: April 14, 1993

580.8 Petroleum Refinery Equipment Leaks

- 580.81 This section shall apply to all components (pump seals, compressor seals, pipeline valves and relief valves) handling volatile organic compounds at petroleum refinery process units and loading sites which utilize butane or lighter hydrocarbons as a primary feedstock. The process units shall include alkylation, polymerization, and LPG loading. This section does not apply to systems or facilities in which or to which natural gas or refinery fuel gas are supplied.
- 580.82 It shall be unlawful to install or operate a sample point at the end of a pipe or line containing VOC unless the pipe or line is sealed with a second suitable closure. Exceptions to this requirement are the ends of a pipe or line connected to pressure relief valves, aspirator vents or other devices specifically required to be open for safety protection. The sealing device shall be removed only when a sample is being taken or during maintenance operations.
- 580.83 It shall be unlawful for any person to cause or allow the operation of a petroleum refinery unless such person conducts a fugitive leak detection and repair program for process units specified in 580.81 and 580.82 consistent with the provisions of 40 CFR 60.591-60.593. Where compliance with 40 CFR 60.591-60.593 results in any expansion of a facilities current LDAR program or modification of an existing facility, the date of applicability for the new portion of the program shall be August 31, 1998.
- 580.84 Pressure relief devices that are connected to an operating flare header, vapor recovery device, inaccessible valves, storage tank valves and valves that are not externally regulated are exempt from the monitoring requirements of this Section.

PASSED: December 13, 1989 AMENDED: March 13, 1997

580.9 High Vapor Pressure Volatile Organic Compound Storage in External Floating Roof Tanks

- 580.91 This section shall apply to all VOC storage vessels equipped with external floating roofs, having capacities greater than 150,000 liters (40,000 gallons). Compliance with this section shall be achieved by December 31, 1999.
- 580.92 This section does not apply to storage vessels that:
- 580.921 Are used to store waxy, heavy pour crude oil;
  - 580.922 Have capacities less than 1,600,000 liters (420,000 gallons) and are used to store produced crude oil and condensate prior to lease custody transfer;

- 580.923 Contain a volatile organic compound with a true vapor pressure of less than 10.5 kPa (1.5 psia);
  - 580.924 Contain a volatile organic compound with a true vapor pressure less than 27.6 kPa (4.0 psia), are of welded construction, and presently possess a metallic-type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid fill type seal, or other equivalent closure device approved by the Control Officer; or
  - 580.925 Are of welded construction, equipped with a metallic-type shoe primary seal and have a shoe-mounted secondary seal.
- 580.93 It shall be unlawful for any person to store a volatile organic compound in a vessel subject to this section unless the vessel has been fitted with a rim-mounted secondary seal or an equivalent closure device approved by the Control Officer.
- 580.94 All seals or closure devices required by 580.93 shall meet the following requirements:
- 580.941 There must be no visible holes, tears, or other openings in the seal or seal fabric;
  - 580.942 The seal shall be intact and uniformly in place around the circumference of the floating roof between the roof and the tank wall; and
  - 580.943 For vapor mounted primary seals, the accumulated area of gaps exceeding 0.32 cm (1/8 inch) in width between the secondary seal and the tank wall shall not exceed 21.2 cm<sup>2</sup> per meter of tank diameter (1.0 in 2 per foot of tank diameter).
- 580.95 All openings in the external floating roof, except for automatic bleeder vents, rim space vents, and leg sleeves shall be:
- 580.951 Equipped with covers, seals, or lids in the closed position except when the openings are in actual use; and
  - 580.952 Equipped with projections into the tank which remain below the liquid surface at all times.
- 580.96 Automatic bleeder vents shall be closed at all times except when the roof is floated off or landed on the roof leg supports;
- 580.97 Rim vents shall be set to open when the roof is being floated off the leg supports or at the manufacturer's recommended setting;
- 580.98 Emergency roof drains shall be provided with slotted membrane fabric covers or equivalent which cover at least ninety percent of the area of the opening.
- 580.99 Routine inspections shall be performed as follows:



- 580.991 Conduct a semi-annual visual inspection of the secondary seal gap;
- 580.992 Measure the secondary seal gap annually if the floating roof is equipped with a vapor-mounted primary seal; and
- 580.993 Maintain records of the types of petroleum liquids stored, the maximum true vapor pressure of the liquid as stored, and the results of any inspections performed for period of two years after the date on which the record was made.
- 580.994 A person proposing to measure the seal fit of a storage vessel in order to comply with this section shall notify the Control Officer of the intent to measure not less than five working days before the measurement so the Control Officer may at his option observe the measurement.

580.100 It shall be unlawful for any person to store a volatile organic compound in a vessel with an external floating roof exempted from this section by 580.924, but containing a volatile organic compound with a true vapor pressure greater than 10.5 kPa (1.5 psia) unless records of the average monthly storage temperature, the type of liquid and the maximum true vapor pressure of such liquids are maintained.

PASSED: December 13, 1989

#### 580.10 Leaks From Gasoline Transport Tanks and Vapor Control Systems

580.101 Applicability This Section shall apply to all gasoline transport tanks and all facilities subject to 580.4, 580.5, and 580.6 of the Northwest Clean Air Agency Regulation.

580.102 Transport Tanks (also referred to as cargo tanks) It shall be unlawful for any person to cause or allow the transfer of gasoline between a facility subject to the requirements of this Section and a gasoline transport tank unless:

- 580.1021 a current (within 365 days) vapor tightness test certification for the transport tank is on file with the facility or is available in the transport vehicle.
  - (a) The vapor tightness test shall be conducted annually in accordance with the procedures specified in 40 CFR 63.425(e) and;
  - (b) The complete vapor tightness certificate shall be on a form approved by the Northwest Clean Air Agency.

580.1022 It is loaded and unloaded in such a manner that the concentration of gasoline vapors is below the lower explosive limit (expressed

as propane) at all points a distance of 2.5 cm (1 inch) or greater from any potential leak source. Any transport tank which fails to meet the requirements of this subparagraph shall be repaired and retested in accordance with 40 CFR 63.422(c) prior to reloading.

580.103 Vapor Control Systems It shall be unlawful for any person to cause or allow the operation of any facility subject to this Section unless the vapor control system and the gasoline loading equipment is operated during all loading and unloading of gasoline such that:

580.1031 The concentrations of gasoline vapors is below the lower explosive limit (expressed as propane) at all points a distance of 2.5 cm (1 inch) or greater from any potential leak source; and

580.1032 There are no liquid leaks in excess of three drops per minute and there is no more than 10 ml of liquid drainage per disconnect.

PASSED: December 13, 1989 AMENDED: November 12, 1999

#### SECTION 580.11 Scope, Registration, Reporting and Notice of Construction

580.111 The owner or operator of a stationary emission source of VOC shall notify the NWCAA and register the source in compliance with Sections 300, 320, 321, 324.

580.112 The owner or operator of a registered stationary emission source of VOC shall furnish, upon request of the Control Officer, such data as the NWCAA may require to calculate the emission of the source and evaluate the emission control program; and such other data at times as may be required by the Control Officer. The data shall be supplied not later than (60) sixty days following the request, in a form and according to instructions received from the Control Officer.

580.113 Owners or operators of stationary emission sources of VOC, as defined in Section 580, shall demonstrate compliance with these regulations, using procedures approved by the Control Officer. These procedures shall comply with established EPA/DOE/CARB Reference Testing Methods. Where source sampling is required, procedures shall be used as specified in Section 180 of the NWCAA Regulation.

580.114 The owner or operator of any source of VOC emissions subject to the provisions of Section 580 shall:

580.1141 Install, operate, and maintain, process and/or control equipment, monitoring instruments or procedures as necessary to comply with paragraph 580.113 of this section; provided that use of Monitoring instruments or procedures is required only as specified in EPA/DOE/CARB Documents cited in subsection 580.113.

580.1142 Maintain, in writing, records and/or reports relating to monitoring instruments or procedures which will, upon review, document the compliance status of the VOC emission source or control equipment to the satisfaction of the Control Officer. Reports shall be forwarded to the Control Officer as required by procedures cited in 580.113. For sources subject to 580.6 and 580.7, no records or reports are required.

580.1143 The provisions of the NWCAA Regulation regarding Notices of Construction shall apply to new or altered VOC emission source, and no person shall construct, install, or establish a new or altered VOC emission source except in compliance therewith.

PASSED: December 13, 1989 AMENDED: March 13, 1997

## **SECTION 590 – PERCHLOROETHYLENE DRY CLEANERS**

590.1 Applicability. This section applies to all dry cleaning systems using perchloroethylene.

590.2 Definitions.

AREA SOURCE - Any perchloroethylene dry cleaning facility that does not have the potential to emit more than 10 tons per year of perchloroethylene to the atmosphere.

BIWEEKLY - Any 14-day period of time.

CARBON ADSORBER - A bed of activated carbon into which an air-perchloroethylene gas-vapor stream is routed and which adsorbs the perchloroethylene on the carbon.

DESORPTION - Regeneration of a carbon adsorber by removal of the perchloroethylene adsorbed onto the carbon.

HALOGENATED HYDROCARBON DETECTOR - A portable device capable of detecting vapor concentrations of perchloroethylene of 25 parts per million by volume and indicating a concentration of 25 parts per million by volume or greater by emitting an audible or visual signal that varies as the concentration changes.

PERCEPTIBLE LEAKS - Any perchloroethylene vapor or liquid leaks that are obvious from:

- a. The odor of perchloroethylene; or
- b. Visual observation, such as pools or droplets of liquid; or
- c. The detection of gas flow by passing fingers over the surface of equipment.

PERCHLOROETHYLENE GAS ANALYZER - A flame ionization detector, photoionization detector, or infrared analyzer capable of detecting vapor concentrations of perchloroethylene of 25 parts per million by volume.

RECONSTRUCTION - For the purpose of Section 590, means the replacement of any components of a dry cleaning system to such an extent that the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable new dry cleaning system.

RESIDENCE - Any dwelling or housing in which people reside excluding short-term housing that is occupied by the same person for a period of less than 180 days (such as a hotel room).

VAPOR LEAK - A perchloroethylene vapor concentration exceeding 25 parts per million by volume (50 parts per volume as methane) as indicated by a halogenated hydrocarbon detector or perchloroethylene gas analyzer.

#### 590.3 Machine Design.

- a. It shall be unlawful for any person to cause or allow the operation of a perchloroethylene dry cleaning system unless all the air-perchloroethylene gas-vapor stream is vented through a carbon adsorber or refrigerated condenser. Dry cleaning machines installed between September 21, 1993 and December 21, 2005 shall use a refrigerated condenser, and shall comply with 590.41(a).
- b. The owner of operator of each dry cleaning system installed after December 21, 2005, at an area source shall route the air-perchloroethylene gas-vapor stream contained within each dry cleaning machine through a refrigerated condenser and pass the air-perchloroethylene gas-vapor stream from inside the dry cleaning machine drum through a non-vented carbon absorber or equivalent control device immediately before the door of the dry cleaning machine is opened. The carbon absorber must be desorbed in accordance with manufacturer's instructions.
- c. All dry cleaning machines shall use a refrigerated condenser and a carbon adsorber as described in 590.2(b), and shall comply with 590.41(b) by July 28, 2008.

590.4 General Operation and Maintenance Requirements. It shall be unlawful for any person to cause or allow the operation of any perchloroethylene dry cleaning system unless all of the following conditions are met:

##### 590.41 Leak Detection and Repair

- a. Conduct a visual inspection of the dry cleaning system at least once a week for perceptible leaks while the system is operating.

- b. An inspection must include an examination of these components for condition and perceptible leaks
    - 1. Hose and pipe connections, fittings, couplings, and valves;
    - 2. Door gaskets and seats;
    - 3. Filter gaskets and seats;
    - 4. Pumps;
    - 5. Solvent tanks and containers;
    - 6. Water separators;
    - 7. Muck cookers;
    - 8. Stills;
    - 9. Cartridge filter housings.
  - c. Conduct vapor leak inspections monthly while the dry cleaning system is running using a halogenated hydrocarbon detector or perchloroethylene gas analyzer that is operated according to the manufacturer's instructions. The operator shall place the probe inlet at the surface of each component interface where leakage could occur and move it slowly along the interface periphery. Any inspection conducted according to this paragraph shall satisfy the requirements to conduct an inspection for perceptible leaks as described in 590.41(a).
  - d. All perchloroethylene dry cleaning systems shall be in compliance with 590.41(c) by July 28, 2008.
  - e. All perceptible and/or vapor leaks shall be repaired within 24 hours of detection. If repair parts must be ordered to repair a leak, the parts shall be ordered within 2 working days of detecting the leak, and the repair parts shall be installed within 5 working days after receipt.
- 590.42 Drain cartridge filters in their housing or other sealed container for at least 24 hours before discarding the cartridges;
- 590.43 Close the door of each dry cleaning machine except when transferring articles to or from the machine;
- 590.44 Store all perchloroethylene, and wastes containing perchloroethylene, in a closed container; and
- 590.45 Operate and maintain the dry cleaning system according to the manufacturer's specifications and recommendations.
- 590.46 Keep a copy on-site of the design specifications and operating manuals for all dry cleaning equipment.

- 590.47 Keep a copy on-site of the design specifications and operating manuals for all emission control devices.
- 590.5 Requirements for Refrigerated Condensers. It shall be unlawful for any person to cause or allow the operation of any perchloroethylene dry cleaning system using a refrigerated condenser unless all of the following conditions are met:
- 590.51 The air temperature at the outlet of the refrigerated condenser installed on a dry-to-dry machine must reach 45°F (7°C) or less during the cool-down period. Compliance shall be determined by continuously monitoring the outlet temperature during the cool-down period using a permanently installed temperature sensor that is accurate to within 2°F (1°C);
- 590.52 The difference between the air temperature at the inlet and outlet of a refrigerated condenser installed on a washer must be greater than or equal to 20°F(11°C). Compliance shall be determined by continuously monitoring the inlet and outlet temperatures during the cool-down period using permanently installed temperature sensors that are accurate to within 2°F(1°C);
- 590.53 The refrigerated condenser shall be operated so that air drawn into the dry cleaning machine does not pass through the refrigerated condenser when the door of the machine is open; and
- 590.54 The refrigerated condenser shall not vent the air-perchloroethylene gas-vapor stream while the dry cleaning machine drum is rotating.
- 590.6 Requirements for Carbon Adsorbers. It shall be unlawful for any person to cause or allow the operation of any perchloroethylene dry cleaning system using a carbon adsorber unless all of the following conditions are met:
- 590.61 The concentration of perchloroethylene at the exhaust of the carbon adsorber shall not exceed 100 ppm while the dry cleaning machine is venting to the carbon adsorber at the end of the last dry cleaning cycle prior to desorption of the carbon adsorber; and
- 590.62 Compliance shall be determined by weekly measurements of the concentration of perchloroethylene at the outlet of the carbon adsorber using a halogenated hydrocarbon detector or perchloroethylene gas analyzer that is accurate to within 25 ppm.
- 590.7 Recordkeeping. Each dry cleaning facility shall have an Operation and Maintenance Plan and the following records which shall be kept on-site and available for inspection upon request by the NWCAA.
- 590.71 A record of dates and results of all monitoring, inspections, and repair of the dry cleaning system.

590.72 If a refrigerated condenser is used on a dry-to-dry machine, a weekly record of the air temperature measured at the outlet of the refrigerated condenser during the cool-down period to verify compliance with Subsection 590.51.

590.73 If a carbon adsorber is used on a dry cleaning system, a weekly record of outlet perchloroethylene concentration to verify compliance with 590.61.

590.74 A record of the volume of perchloroethylene purchased each month including receipts of perchloroethylene purchases and a calculation of the amount of perchloroethylene purchased over the previous 12 months. All receipts of perchloroethylene purchases must be retained for 5 years.

590.8 Prohibitions.

- a. It shall be unlawful to operate a multi-machine dry cleaning operation in which washing and drying are performed in different machines (transfer system) after December 31, 1999.
- b. After July 27, 2006 it shall be unlawful to install or reconstruct a dry cleaning system in a building with a residence.
- c. After December 21, 2020, it shall be unlawful to operate a dry cleaning system that is located in a building with a residence.

590.9 Major Source Requirements. If the dry cleaning system is located at a facility that emits 10 tons or more of perchloroethylene annually, the facility must meet the additional requirements set forth in 40 CFR Part 63, Subpart M.

590.10 New sources subject to Section 590 that begin operation after October 1, 2007 shall notify the NWCAA within thirty (30) days of start-up. This notice shall include the name and address of the facility, its owner and or operator, and a statement on the facility's status of compliance with this section.

PASSED: February 8, 1996 AMENDED: July 14, 2005, November 8, 2007

## **SECTION 600 - FOREWORD**

600.1 Ambient air quality objectives are not to be confused with air quality standards, but are goals to be strived for. They are intended to describe a level of air quality which will:

600.11 Not degrade human health and safety.

600.12 Avoid injury to plant and animal life and property.

600.13 Be consistent with the economic and social well being of the area.

600.2 Objectives are designed to serve as a guide:

600.21 For the development of ambient and emission standards.

600.22 In the preparation of long and short range objectives for ambient and emission standards, and

600.23 For the election of air pollution control measures for existing and planned facilities which could create air pollution.

600.3 The adopted objectives are not intended to represent the ultimate in air quality achievement. As evidence accumulates on the effects of contaminants and as new and/or revised sampling and analytical procedures become available, present objectives and procedures may be revised and/or additional objectives and procedures may be established.

PASSED: January 8, 1969

## **SECTION 601 - APPLICATION OF OBJECTIVES**

601.1 The NWCAA may employ any reasonable method or combination of methods such as area sampling, source sampling, emission evaluation and assessment of source contribution and effect.

601.2 Consistent with Section 600.1 of this Regulation, it is the intent of the NWCAA to establish emission standards such that emissions in one area will not contravene the objectives in another area.

## **SECTION 602 - AMBIENT AIR QUALITY AREAS**

602.1 Air pollution potentials vary within the jurisdiction of the NWCAA with varying degrees of social and economic development. These factors in combination with topographic and meteorological elements tend to accentuate or reduce emission effects.

602.2 The ambient air quality goals are defined for three areas within the jurisdiction of the NWCAA.



602.21 Area #1 - predominantly used for timber and agricultural crops, farming and recreation. Habitation and industry sparse.

602.22 Area #2 - dwelling units, small farms, commercial and office buildings and stores.

602.23 Area #3 - primarily light and heavy industry.

602.4 County and city planning agencies shall make available to the NWCAA the delineation of the zoning status within their area of jurisdiction.

PASSED: January 8, 1969 AMENDED: April 14, 1993

**SECTION 603 - AMBIENT AIR QUALITY OBJECTIVES**

603.1	Particulates	#1	AREA #2	#3
603.11	Suspended Particulates (PM <sub>10</sub> ) µg/m <sup>3</sup> Sampling period – 24 hrs			
	50% of annual values less than	40.	50.	65.
	84% of annual values less than	60.	75.	100.
603.12	Settleable Particulates g/m <sup>2</sup> /mo Sampling Period - 30 days			
	50% of annual values less than	030.	045.	060.
	84% of annual values less than	035.	055.	120.
603.2	Sulfur Dioxide (ppm by volume) Sampling period - 24 hours			
	50% of annual values less than	0.1	0.1	0.15
	Sampling period - one hour			
	95% of annual values less than	0.25	0.30	0.40
603.3	Sulfur Acid Mist (mg/m <sup>3</sup> ) Sampling period - 24 hours			
	50% of annual values less than	0.1	0.1	0.15
603.4	Hydrogen Sulfide (ppm by volume) Sampling period - two hours			
	50% of annual values less than	0.04	0.06	0.10
603.5	Total Oxidants (ppm by volume) Sampling period - one hour			
	50% of annual values less than	0.1	0.15	0.15
603.6	Fluorides (ppm by volume as HF) Sampling period - 24 hours			
	50% of annual values less than	0.001	0.001	0.002
603.7	Carbon Monoxide (24 hour average)			

5 ppm

- 603.8 Smoke. The ambient air shall not contain visible smoke which is inconsistent with the economic or social well-being of the community or which will prevent enjoyment and use of property. The ambient air shall not contain materials in an amount such that the Coefficient of Haze will exceed 0.5 COH's per one thousand (1000) linear feet of air. The degree of haze present in the ambient air shall be referred to as the Soling Index.
- 603.9 Odorous Substances. The ambient air shall not contain odorous substances in such concentrations or of such duration as will threaten health or safety or prevent the enjoyment and use of property.
- 603.10 Radioactive Substances. The ambient air shall not contain any radioactive substances in concentrations which are deleterious, either directly or indirectly, to human health or which affect the economic or social well-being of the community.
- 603.11 Other Toxic or Deleterious Substances. The ambient air shall not contain toxic or deleterious substances, in addition to those specifically listed in these objectives, in concentrations and durations which have been demonstrated to adversely affect human health or well-being, or unreasonably and adversely affect plant or animal life.

PASSED: January 8, 1969 AMENDED: April 14, 1993

**APPENDIX A AMBIENT MONITORING, EMISSION TESTING, AND CONTINUOUS EMISSION AND OPACITY MONITORING**

(The effective date of Appendix A is July 14, 2006.)

I. AMBIENT MONITORING

CRITERIA POLLUTANTS

(A) METHODS AND EQUIPMENT

- (1) Sulfur dioxide stations shall employ EPA's automated equivalent method. All other monitors shall be operated and maintained as described in the appropriate Sections of 40 CFR Part 50 and 40 CFR Part 58.
- (2) Sample collection lines and instrument manifolds shall be constructed of Teflon or glass. Residence time in the sampling line shall not exceed 20 seconds.
- (3) Analyzers shall be designated EPA reference or EPA designated equivalent method. Sulfur dioxide monitors shall be operated in the 0 to 1 ppm range.
- (4) A Quality Assurance (QA) manual and a station log book shall be kept for all stations. The station log book shall be used to record all ongoing activities associated with station operation. Upon approval by the NWCAA, electronic log books may be utilized.
- (5) Strip charts shall be used for all monitors unless the data acquisition system is capable of generating trend graphs from one-minute measurement averages. Paperless strip charts are acceptable if configured to store one-minute measurement averages. For sulfur dioxide stations using data acquisition based storage, one-minute data shall be reviewed for possible 5-minute violations.
- (6) All stations shall be operated on Pacific Standard Time (PST).

(B) CALIBRATION

- (1) Instruments shall be calibrated with National Institute of Standards and Technology (NIST) reference materials or NIST-traceable secondary standards, using standard reference methods and EPA-approved procedures.
- (2) Each instrument shall be calibrated at least once every six (6) months and whenever span or precision checks deviate by more than 10% of the true value or the absolute value of the zero response is equal to or

greater than five times the resolution of the monitor (for sulfur dioxide monitors, 0.005 ppm)

- (3) Data precision shall be determined using single point precision checks performed at least once every two (2) weeks. Precision tests are performed by challenging the analyzer with a test gas of known concentration (between 0.080 and 0.100 ppm for sulfur dioxide). Precision data must be within  $\pm 10\%$  of the true value.
- (4) Data accuracy shall be assessed by performance audits and weekly span checks. All continuous analyzers are to be zeroed and spanned at least weekly at 70% to 90% of scale using a test gas of known concentration. Make appropriate calibration adjustments if the analyzer response deviates by more than 10% from the true value.
- (5) All standard materials used for calibrations, precision and span checks shall be recertified every 6 months, or new standard materials shall be used.
- (6) If precision and span checks are conducted at the same time, the precision test shall be conducted prior to any zero and span adjustments.
- (7) Gaseous monitors shall not be zeroed or span checked manually when pollutant levels are detected at more than 50% of any applicable 5-minute or hourly short-term standard. Monitors shall not be zeroed or spanned more than twice a day.
- (8) Written calibration and precision/span check procedures shall be included in the QA manual required under paragraph I(A)(4).

(C) MAINTENANCE

- (1) Preventive maintenance for the ambient analyzers and calibration systems shall be performed in accordance with procedures described in the QA manual required under paragraph I(A)(4) and the methods referenced in I(A)(1).
- (2) All scheduled and unscheduled maintenance shall be recorded in the station log book.
- (3) Written preventive maintenance procedures shall be included in the QA manual required under paragraph I(A)(4).

(D) AUDITING

- (1) A station audit shall be conducted by the NWCAA at least once per year. The NWCAA audit does not fulfill any requirements specified under I(B).
- (2) The NWCAA audit shall include an assessment of precision/accuracy of the instrument, a review of QA manual and other QA materials, siting

parameters and operating procedures, as well as an inspection of the station log for maintenance and calibration documentation.

- (3) When a monitor does not fall within defined limits or tolerances, ambient data shall be invalidated back to the most recent point in time at which measurements are known to be accurate or an event which can be identified as the probable cause of the failure.

(E) DATA RECORDING, VALIDATION AND REPORTING

- (1) For each station visit, the following information shall be recorded in the station log book:

- (a) Date, time, and personnel identification
- (b) Room temperature minimum/maximum and current value
- (c) Reason for visit
- (d) Actions taken
- (e) Time period for which the analyzer was offline

- (2) All quality assurance procedures shall be described in detail in the QA manual, including but not limited to:

- (a) General description of the monitor installation, including model and serial numbers
- (b) General operating procedures
- (c) Calibration, precision, span check procedures, and associated control limits
- (d) Preventive maintenance procedures
- (e) Corrective maintenance procedures
- (f) Data recording, processing, and validation procedures
- (g) Spare parts list
- (h) Evidence of operator training
- (i) Vendor contact information
- (j) List of current station operators

- (3) For reporting purposes, ambient air quality data are to be averaged for each clock hour. Strip chart recorder time shall not differ from the time of the data acquisition system by more than 10 minutes.

- (4) Data shall be collected on strip chart recorders (except as noted under I(A)(5)), as well as a digital data acquisition system. Strip charts shall

be reviewed, and checked against the appropriate data logger values. The strip charts shall be initialed by the station operator during each station visit.

- (5) All questionable data such as significant sudden spikes, excessively noisy signals, or other unusual data patterns should be investigated, and, if appropriate, voided. For an hour/day to be considered valid, a minimum of 45 minutes/18 hours of valid data shall be collected, respectively. Data collected during span/precision checks, calibrations or maintenance shall be considered invalid. Data collected during periods of exceedance of the acceptable temperature range are invalid and shall be flagged; validation shall be subject to review by the Control Officer.
- (6) Monthly diskettes containing the validated pollutant concentration data in SAROAD format shall be submitted to the NWCAA no later than thirty (30) days after the end of the reporting month. Other file formats, as well as data submittal via e-mail may be approved by the Control Officer.
- (7) Whenever the ambient SO<sub>2</sub> concentration is measured to be equal to or greater than 0.800 ppm for five (5) or more consecutive minutes, a supplemental written report shall be submitted with the monthly monitoring data, indicating the time, actual concentrations, and possible reason(s) (if known) for each period of excess SO<sub>2</sub>.
- (8) Whenever monitoring equipment required by an Order of Approval to Construct, an air operating permit, or enforcement action, for any reason, fails to provide data for a continuous period of twenty-four (24) hours or longer, or if more than two (2) consecutive days with less than eighteen (18) hours of valid data occur, the NWCAA shall be notified. Notification shall be made within seventy-two (72) hours after the first invalid day occurs.
- (9) For each monitoring station, the operator shall provide a supplemental report when monthly data capture falls below 90%. This report shall list the reasons for the low data capture.
- (10) All data strip charts and site logs shall be kept for at least five years.

#### NON – CRITERIA POLLUTANTS

##### (F) METHODS AND EQUIPMENT

- (1) Ambient measurements of pollutants not listed as criteria pollutants in the FCAA may be required by the NWCAA. Guidelines for methods, equipment, associated operations, data recording and reporting shall be approved by the NWCAA on a case by case basis.

#### METEOROLOGICAL DATA

(G) METHODS AND EQUIPMENT

- (1) The meteorological system shall accurately measure wind speed and wind direction and be approved by the Control Officer. The data accuracy shall fall within the following control limits:
  - (a) wind speed:  $\pm 2$  mph
  - (b) wind direction:  $\pm 10$  degrees
  - (c) temperature:  $\pm 2$  °F
- (2) Instruments measuring wind direction shall be oriented to true north.
- (3) A log book shall be kept for each meteorological system. Dates and description of initial installation, results of calibrations, preventive maintenance and operational checks, and operator initials shall be recorded in the log book. Upon approval by the NWCAA electronic log books may be utilized.
- (4) All station installations shall meet EPA siting criteria (*Quality Assurance Handbook for Air Pollution Measurement Systems - Volume IV – Meteorological Measurements*) (EPA-600/4-82-060, revised 1989).

(H) AUDITING

- (1) A performance audit shall be conducted once every two years (22-24 months from the last performance audit) by an independent auditor. A performance audit shall also be performed if the siting parameters or location changes or new equipment is installed. The audit shall be conducted within 90 days, if new equipment is installed or a change in siting parameters occurs, and shall evaluate the following:
  - (a) As-found orientation
  - (b) Wind speed threshold check
  - (c) Wind direction threshold check
  - (d) Wind speed accuracy check
  - (e) Wind direction accuracy check
- (2) A system audit may be conducted periodically by the NWCAA. This audit shall include an examination of all site logs, instrument siting and installation, daily operating procedures, preventive maintenance, and calibration data and methods.

(I) DATA RECORDING AND REPORTING

- (1) All meteorological data shall be reported as hourly averages. When wind speed is less than two (2) miles per hour and there is no predominant wind direction, the direction may be reported as 000

degrees. If there is a predominant wind direction, an average shall be reported.

- (2) Meteorological data calibration reports and results from independent performance audits shall be submitted to the NWCAA no later than thirty (30) days after the end of the month in which they were conducted.
- (3) Monthly diskettes containing the validated meteorological data in SAROAD format shall be submitted no later than thirty (30) days after the end of the reporting month. Other file formats, as well as data submittal via e-mail may be approved by the Control Officer.

## II. EMISSION TESTING

### (A) GENERAL

- (1) Unless specified in an applicable subpart, the test length for an emission test shall, whenever possible, equal or exceed the time period of the standard with which the test is to demonstrate compliance.
- (2) Emission tests shall, whenever possible, employ methods with established detection limits (DL) lower than the applicable standard. Minor modifications to the test methods, designed to increase method precision, may be approved by the Control Officer, provided that such modifications do not represent a major modification to the test method, or a less stringent interpretation of applicable regulations.
- (3) Where measured concentrations or emissions of pollutants are below the method detection limit, the value of the detection limit shall be used to calculate average emissions, and the results shall be reported as "less than DL" if all runs were below the DL, and "less than" the average of the runs if one or more runs were above the DL. The detection limit shall be in units of the standard and actual DLs, whether standard or calculated, must be reported. Reagent blanks below the DL shall use a value of zero. In Method 23, DLs shall be treated as written in the method. DLs for similar pollutants cannot be added or averaged.
- (4) Gas dilution systems used for instrument calibration shall comply with EPA Method 205.

### (B) TEST PLANS AND TEST DATES

- (1) A source test plan shall be submitted for approval by the NWCAA for all compliance source tests at least thirty (30) days prior to the scheduled date, unless otherwise specified in an applicable subpart. A summary of the test shall accompany the test plan and be submitted on a template provided by the NWCAA. CGA and RATAs are not considered source tests.



- (2) Once a test plan has been approved by the NWCAA, any changes in test dates or methodology shall require NWCAA approval, provided such changes do not conflict with other requirements or extend the test date beyond the date specified in a subpart.

(C) OPERATING CONDITIONS

- (1) Unless otherwise specified in an applicable subpart or a permit condition, the facility shall operate at normal conditions. Normal operation shall exclude periods of startup, shutdown, or unit malfunction. Soot blowing is considered part of normal operations.
- (2) If maximum capacity does not represent the condition which results in the highest emissions, the facility may be required to repeat the test at different load conditions and/or during use of a different fuel.
- (3) All operating parameters, listed and approved under II(B) shall be recorded during the test.

(D) TEST STOPPAGES

- (1) Once initiated, a compliance test shall be completed, except as noted in II(D)(2). Failure to complete a test shall be a violation of the requirement to test, and, in cases where the initial data indicate non-compliance with the applicable emission standard, the results may be considered a violation of that standard.
- (2) A stack test may be stopped due to severe weather, tester equipment failure, unit failure, safety considerations, or other conditions beyond the control of the facility. The NWCAA observer may void a test or individual run on-site if procedures are determined to be employed incorrectly.
- (3) Data generated during aborted tests shall be appended to the report of the valid repeat test. Documentation of the reasons for test stoppage shall be included in the test report. Test stoppages under II(D)(2) do not provide an extension of any test deadline.

(E) POSTPONEMENT

- (1) Compliance tests shall be completed prior to the required test deadline as listed in the applicable subpart or a permit condition. Failure to conduct a timely compliance test constitutes a violation of the requirement to test.

(F) TEST REPORT

- (1) A test report shall be submitted to the NWCAA no later than 60 (sixty) days after the completion of the test, unless otherwise specified by an applicable subpart.

- (2) A summary of the test shall accompany the test report and submitted on a template provided by the NWCAA.
  - (3) All field data, operational data listed in the test plan, quality assurance information, sample calculations, and other supporting information, such as certificates for gas standards, or meter box and calibrations, shall be included in the test report.
- (G) REQUIREMENTS FOR RE-TESTING
- (1) A facility shall be required to repeat a test, and may be required to conduct source tests more frequently, if one or more of the following conditions are encountered:
    - (a) The facility exceeded the applicable standard.
    - (b) If the test was stopped for any reason.
    - (c) If operating conditions or testing methodology deviated significantly from those described in the original test plan.
    - (d) If the test was voided by the NWCAA.

### III. CONTINUOUS EMISSION AND OPACITY MONITORING

- (A) GENERAL
- (1) Unless subject to acid rain regulations (40 CFR Part 75), all continuous emission monitoring (CEM) systems shall be capable of meeting the appropriate EPA performance specification using procedures outlined in 40 CFR 60, Appendix B. CEMs subject to acid rain regulations shall be capable of meeting the specifications outlined in the appropriate Section of 40 CFR Part 75.
  - (2) All CEMs shall be operated in accordance with the appropriate Section of 40 CFR 60, Appendix F.
  - (3) A Quality Assurance (QA) and a station log book shall be kept for all stations. The station log book shall be used to record all ongoing activities associated with station operation.
  - (4) The operator shall assess the operation of each CEM daily. The date, time, operator and location shall be written on the strip chart and log book each time the monitor is checked manually. Recorder charts shall be documented with explanations for unusual traces, maintenance, invalid data, calibrations, etc. On a case-by-case basis the NWCAA may approve the use of electronic log books.
  - (5) For gaseous CEMs, "continuous" shall be defined as a minimum of one measurement every 15 minutes, i.e., four equally spaced data points comprising an hourly average.

- (6) For continuous opacity monitors (COMs), "continuous" shall be defined as a minimum of one measurement every 15 seconds.
  - (7) Continuous emission rate monitors shall comply with 40 CFR Part 60, Appendix B, Specification 6. The flow portion of the system shall be checked periodically against EPA Method 2.
- (B) CALIBRATION
- (1) CEM calibration drift (precision) checks shall be conducted daily in accordance with 40 CFR Part 60, Appendix F and the written operational procedures.
  - (2) The instrument shall be adjusted in accordance with the requirements of the applicable performance specification of 40 CFR Part 60, Appendix B.
  - (3) Temperature monitors shall be accurate to within 5 degrees F, unless otherwise specified in a subpart.
  - (4) A section on calibration check and adjustment procedures shall be included in the CEM QA document.
  - (5) Continuous opacity monitors shall be calibrated as outlined in 40 CFR Part 60, Appendix B, Specification 1 and the manufacturer's procedures.
- (C) MAINTENANCE
- (1) Continuous opacity monitors shall be maintained according to "*Recommended Quality Assurance Procedures for Opacity Continuous Emission Monitoring Systems*" (EPA 340/1-86-10) and the manufacturer's procedures.
  - (2) All gaseous CEMs shall be maintained using QA criteria of 40 CFR Part 60, Appendix F and the manufacturer's procedures.
  - (3) Temperature monitors shall be maintained according to manufacturer's recommendations.
  - (4) A section on preventive maintenance procedures shall be included in the CEM QA document.
- (D) AUDITING - Continuous Opacity Monitors (COMs)
- (1) Accuracy checks shall be performed according to EPA "*Recommended Quality Assurance Procedures for Opacity Continuous Emission Monitoring Systems*" (EPA 340/1-86-10). Testing in addition to otherwise applicable requirements shall be implemented as follows:

- (a) On-stack performance audit: A calibration error check shall be conducted if accuracy or linearity of data does not comply with applicable specifications.
  - (b) An off-stack (clear path) zero alignment shall be conducted if the percentage difference between the simulated zero check response and the true value is greater than suggested manufacturer's limits or standards.
  - (2) System audits may be conducted by the NWCAA. The audit may include an on-site inspection of the opacity monitor and a review of operating procedures, site log, documentation of data collection activity, and location criteria.
  - (3) Multi-performance audits may be conducted by the NWCAA to assess data accuracy and to determine if the opacity monitor meets the applicable performance specification.
- (E) AUDITING - GASEOUS MONITORS
- (1) Data accuracy assessments shall be performed at least once every calendar quarter and at periodic intervals determined by monitor performance and data accuracy.  
  
Data accuracy assessments shall be conducted in accordance with procedures outlined in 40 CFR Part 60, Appendix F. The following testing methods shall be used as described in Part 60:
    - (a) Relative Accuracy Test Audit (RATA)
    - (b) Relative Accuracy Audit (RAA)
    - (c) Cylinder Gas Audit (CGA)The Relative Accuracy Test Audit shall be conducted at least once every four (4) calendar quarters as described in the applicable performance specification outlined in 40 CFR Part 60, Appendix B.
  - (2) All RATAs shall assess accuracy in units of the applicable standard with which compliance is being determined and shall test the entire system. Accuracy calculations shall be based on the output of the CEM's data acquisition system.
  - (3) Data accuracy assessments which require the CEM to be off-line shall not be performed during periods in which the CEM is measuring greater than 75% of the applicable standard without prior approval by the NWCAA.
  - (4) System audits may be conducted by the NWCAA. The audit may include an on-site inspection of the CEM and a review of operating

procedures, site log, documentation of data collection activity, and location criteria.

- (5) Multi-performance audits may be conducted by the NWCAA to assess data accuracy and to determine if the CEM meets the applicable performance specification.

(F) DATA RECORDING, VALIDATION AND REPORTING

- (1) Strip charts shall be used for all monitors unless the data acquisition system is capable of generating trend graphs from one-minute averages. Paperless strip charts are acceptable if configured to store one-minute averages (15-second or better averages for opacity monitors). Strip chart times shall not deviate from the time of the data acquisition system by more than 10 minutes.
- (2) All gaseous CEMs shall be able to digitally capture and store data in at least 5-minute averages, unless the data acquisition system is used to replace strip charts in which case one-minute storage shall be required. Opacity monitoring systems shall be capable of storing 15-second averages.
- (3) All data shall be retained for a period of at least five (5) years and be available to the NWCAA upon request.
- (4) Each CEM shall have a log book or file on site. Any work performed on any portion of CEM system shall be recorded, including the following information:
  - (a) Date, time, and personnel identification
  - (b) Reason for station visit
  - (c) Action(s) taken
  - (d) Time period for which the analyzer was offline
- (5) Each CEM shall have a QA manual on site which address all quality control requirements outlined in 40 CFR Part 60, Appendix F, Section 3. All QA procedures should be described in sufficient detail to assure that all operators carry out procedures in the same manner. At a minimum, the following shall be included:
  - (a) Instrument installation description including model and serial numbers
  - (b) Operating procedures including daily check procedures and pertinent instrument settings
  - (c) Procedures for calibration and calibration drift assessment
  - (d) Quality control limits and instrument adjustments procedures

- (e) Preventive maintenance procedures
  - (f) Data recording, validation, backup, and reporting procedures
  - (g) Accuracy assessment procedures for CGAs and RATAs
  - (h) Corrective action plan for malfunctioning CEM, including reporting requirements
  - (i) List of current station operators
  - (j) Vendor names and addresses
  - (k) Spare parts inventory
  - (l) Evidence of operator training
- (6) Data from strip chart recorders or recording devices approved under III(F)(1), shall be reviewed and, if applicable, compared to corresponding data logger values, and then signed by the station operator. At a minimum, the following information shall be checked and appropriately labeled:
- (a) Zero and span/precision checks
  - (b) Preventive maintenance operations
  - (c) QA activities
  - (d) Unusual chart traces
  - (e) Time, date, and personnel identification
- (7) Pre-adjustment values for automatically adjusting monitors shall be documented (40 CFR Part 60, Appendix F, Section 4.2).
- (8) All unusual or questionable data shall be investigated and, if appropriate, be voided. For gaseous monitors, a minimum of 45 minutes of valid data in a 1-hour period is required for the hour to be considered valid. A minimum of 18 hours of valid data in a 24 hour period is required for the day to be considered valid.
- (9) CEM data shall be considered invalid, and flagged for reporting purposes, if:
- (a) The monitor is not operated and maintained in accordance with the applicable performance specifications of 40 CFR Part 60, Appendix B.
  - (b) Quality assurance procedures are not in accordance with 40 CFR Part 60, Appendix F.
  - (c) The CEM or is not operative or off line.

- (d) The monitor is being zeroed or spanned.
  - (e) The CEM is "out-of-control" as defined in 40 CFR Part 60, Appendix F.
- (10) Data generated during QA audits (e.g., CGAs), calibration, and calibration drift checks shall be excluded for purposes of compliance determination.
- (11) For reporting purposes, averaging periods for CEMs are one (1) clock hour for gaseous monitors, six (6) minutes for opacity monitors, and fifteen (15) minutes for temperature monitors, unless otherwise specified by applicable limits.
- (12) Missing data substitution: Missing or invalid data shall be substituted using the following procedures:
- (a) Missing data from CEMs that are turned off during periods of excess emissions shall be reported as exceedances of all applicable emission standards.
  - (b) Parametric, engineering, or source test data may be utilized for data substitution during periods of normal operation as demonstrated by operating data.
  - (c) Data substitution is not required if invalid data are the result of CEMs drift checks, calibrations, audits, or preventative maintenance.
  - (d) If neither (a) nor (b) above apply, the following substitution scheme is to be used:

Previous 30 day data availability	Up to 24 hours of missing data:	Greater than 24 hours of missing data
≥ 95%	Average of last and first valid hour bracketing the missing data period.	The average of first and last valid hour or the 90th percentile value during the last 720 hours, whichever is greater
Previous 30 day data availability	Up to 8 hours of missing data:	Greater than 8 hours of missing data
≥ 90% and < 95%	Average of last and first valid hour bracketing the missing data period	The average of first and last valid hour or the 95th percentile value during the last 720 hours, whichever is greater
< 90%	Maximum hourly average over the last 30 days	Maximum hourly average over the last 30 days

- (13) Data availability (in percent) shall be defined as the [(number of valid (excluding substituted) hours of CEM data in a reporting month) minus (hours of calibration/CD/QA checks)] divided by [total hours of operation of the corresponding unit in that month] times 100.
- (14) CEMs are required to maintain greater than 90% data availability on a monthly basis. A supplemental report shall be submitted if during any calendar month a CEM system fails to produce 90% data availability, stating the reason(s) for the low data availability.
- (15) The following data shall be submitted to the NWCAA on a monthly basis or according to the applicable standard:
- (a) Time, date, magnitude, and cause of all emissions or temperatures which exceed the applicable standard(s).
  - (b) The cause and time periods of any bypass of the air pollution control equipment.
  - (c) The cause and time periods of CEM downtime not associated with routine QA or maintenance operations.
  - (d) Data availability for each CEM, listed by unit and parameter.
  - (e) Supplemental report for system with ≤90% monthly data availability.
  - (f) Other data or information as required by the Control Officer.



- (16) Monthly reports shall be postmarked no later than thirty (30) days after the end of the reporting month.
- (17) A Data Assessment Report as defined in 40 CFR Part 60 Appendix F, Section 7 shall be submitted to the NWCAA on a quarterly basis and other time interval as specified by the NWCAA.

PASSED: July 14, 2005