

TABLE 9 – ADDITIONAL REGULATIONS APPROVED FOR THE SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA) JURISDICTION

[Applicable in Spokane County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173-400-700, 173-405-012, 173-410-012, and 173-415-012]

Spokane Regional Clean Air Agency Regulations

Regulation I - Article VI - Emissions Prohibited

SECTION 6.05 PARTICULATE MATTER AND PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE

- ~~A. It shall be unlawful for any person to cause or allow the discharge of particulates in sufficient numbers to unreasonably cause annoyance to any other person when deposited upon the real property of others.~~
- B. It shall be unlawful for any person to cause or permit particulate matter to be handled, transported or stored without taking reasonable precautions to prevent the particulate matter from becoming airborne.
- C. It shall be unlawful for any person to cause or permit a building or its appurtenances or a road to be constructed, altered, repaired, or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne. Reasonable precautions to prevent particulate matter from becoming airborne must also be used on roads used as detour routes around roads, or section of road that are being constructed, altered, repaired, demolished, or closed for any purpose.
- D. It shall be unlawful for any person, including the owner or person in control of real property to cause or allow particulate matter to be deposited upon a paved roadway open to the public without taking every reasonable precaution to minimize deposition. Reasonable precautions shall include, but are not limited to, the removal of particulate matter from equipment prior to movement on paved streets and the prompt removal of any particulate matter deposited on paved streets.
- E. It shall be unlawful for any person to cause or allow visible emissions of fugitive dust unless reasonable precautions are employed to minimize the emissions. Reasonable precautions may include, but are not limited to, one or more of the following:
 - 1. The use of control equipment, enclosures, and wet (or chemical) suppression

- techniques, and curtailment during high winds;
2. Surfacing roadways and parking areas with asphalt, concrete, or gravel;
 3. Treating temporary, low traffic areas (e.g., construction sites) with water or chemical stabilizers, reducing vehicle speeds, constructing pavement or rip rap exit aprons, and cleaning vehicle undercarriages and tires before they exit to prevent the track-out of mud or dirt onto paved public roadways; or
 4. Covering or wetting truck loads or allowing adequate freeboard to prevent the escape of dust-bearing materials.

State effective: 4/10/04; EPA effective: 5/12/16 (70 FR 21470, April 12, 2016)

SECTION 6.14 STANDARDS FOR CONTROL OF PARTICULATE MATTER ON PAVED SURFACES

- A. Applicability. The provisions of Section 6.14 shall apply to any government agency of a state, county, city or municipal corporation that applies or contracts for application of sanding materials to or mechanically sweeps or vacuums or contracts for sweeping or vacuuming of paved surfaces within the PM10 Nonattainment area, or within the PM10 maintenance area after the nonattainment area is redesignated to attainment. This Section shall also apply to all suppliers of sanding materials to be used by these affected entities.
- B. Definitions.
 1. Affected Entity is any governmental agency of a state, county, city or municipal corporation as described in Subsection A.
 2. Approved Laboratory means a certified or approved facility capable of performing the specified tests in a competent, professional, and unbiased manner in accordance with ASTM testing procedures.
 3. The Authority is the Spokane Regional Clean Air Agency.
 4. Base Sanding Amount is the average amount of sanding materials applied per lane mile by each affected entity within the PM10 Nonattainment Area during the 1992 - 1993 season or another base season, as requested by an affected entity and approved by the Authority.

5. Durability Index means the percent loss of weight as determined using ASTM "Standard Test Method for Resistance to Degradation of Small-Size Coarse Aggregate by Abrasion and Impact in the Los Angeles Machine", designated C131-89, or other approved ASTM procedure.
 6. Full Deployment means that sanding materials have been applied to all priority roadways targeted for treatment during a snow/ice event.
 7. Percent Fines means the percent material passing a #100 sieve as determined by the American Society for Testing Materials (ASTM) "Standard Method for Sieve Analysis of Fine and Coarse Aggregates", Designation C136-84a (1988) (American Highway and Transportation Officials designation T27-88), or other approved ASTM procedure.
 8. PM10 Maintenance Area means the same as the PM10 Nonattainment area unless otherwise defined in an approved PM10 Maintenance Plan.
 9. PM10 Nonattainment Area means the Spokane County PM10 Nonattainment Area, defined in CFR Title 40, Part 81, as designated on November 15, 1990.
 10. Priority Roadway means any street, arterial, or highway, within the PM10 Nonattainment Area, with more than 15,000 average daily traffic count, and any connecting entrance or exit ramp.
 11. Recycled Sanding Materials means previously used sanding materials which have been collected from roadways or paved areas and are then re-used as is, after washing, or after blending with new sanding materials.
 12. Sanding Materials means natural geologic materials, excluding salt and other de-icing chemicals, used to provide increased traction on roadways or paved areas.
 13. Season means the period beginning, November 1, in one calendar year and concluding on April 30, the next calendar year.
- C. Emission reduction and control plans. Each affected entity shall submit to the Authority an initial plan, including an implementation schedule describing the programs and methods to be used to reduce PM10 emissions from paved surfaces. If the affected entity incorporated after the effective date of this regulation, that entity shall submit an initial plan within 180 days of incorporation. In reviewing each plan, the Authority shall allow consideration of mobility and transportation safety factors. In approving any initial plan, or plan revision the Authority must make a finding, in consultation with the Washington

State Department of Ecology, that the cumulative effect of the plans submitted by all affected entities will maintain at least a 70% reduction, from the 1992 - 1993 base season, in the 24 hour PM10 emissions from paved surfaces.

1. Each plan is subject to approval by the Authority and shall address, at a minimum, all of the following:
 - a. Base sanding amount;
 - b. Percent sanding reduction goal;
 - c. Sanding materials specifications to be employed;
 - d. Criteria for application of sanding materials. Where and when sanding materials are applied;
 - e. Identification of priority roadways;
 - f. Locations, application rates, and circumstances for the use of chemical deicers and other sanding alternatives;
 - g. Street sweeping frequency and technology to be employed;
 - h. Factors for determining when and where to initiate street sweeping following a sanding event, with the goal of expeditious removal of sanding materials from priority roadways when safety and mobility requirements have been satisfied;
 - i. An implementation schedule giving the estimated dates of start and completion, if applicable, of each part of the plan; and
 - j. A schedule for removal of sanding materials from all surfaces to which they are applied.
2. The plans submitted shall be implemented by each affected entity upon approval of each plan.
3. Within 45 days of submittal of the reports required in Subsection F. of this Section, the Authority shall determine if the plan commitments have been met and shall notify each affected entity that has failed to fully implement its plan.
4. If the Authority, after consultation with the affected entities, the Washington Department of Ecology, and the United States Environmental Protection Agency,

determines that the emission reduction and control plans do not provide for sufficient reduction in PM10 emissions to achieve the emission reduction credit for paved road surfaces as contained in the State Implementation Plan, the Authority may require any or all affected entities to modify their plans in order to achieve additional reductions.

5. Each affected entity shall review their approved plan within 90 days of the effective date of the amendment to this regulation and every five (5) years thereafter and within 90 days of the Authority's determination made pursuant to Subsection C. 4. and revise the plan as appropriate to ensure that identified priority roadways reflect changes in traffic counts and driving patterns and that all aspects of the plan reflect current sanding and sweeping technologies, programs, and schedules of the affected entity and requirements of the Authority. All amended plans are subject to approval by the Authority.

D. Sanding Materials Specifications

1. Material Standards. No affected entity shall use sanding materials, whether new or recycled, which equal or exceed 3% fines and 25% durability index.
2. Contractual Requirements. After the effective date of this regulation, no affected entity shall execute a contract for the purchase of sanding materials unless the contract includes standards at least as stringent as those set forth in Subsection E.1. of this Section.

E. Testing

1. Supplier Testing Requirements
 - a. Suppliers of sanding materials shall have tests performed by an approved laboratory to determine the percent fines and durability index on representative samples of their sanding materials which are supplied to affected entities.
 - b. The sampling and test frequency and methodology used shall ensure that the samples are representative and enable the supplier to certify to the affected entity that the actual sanding materials supplied for use will meet the requirements of Subsection D. of this Section.
2. User Requirements. Affected entities or their contractors, shall have at least one test performed by an approved laboratory to determine the percent fines and

durability index on all recycled materials at least once for the first 250 tons of recycled materials used each season and at least once for every 500 tons of recycled materials used thereafter during the same season.

3. Authority Audits. The Authority may enter the site of any affected entity or supplier of sanding materials subject to this Section for the purpose of obtaining a sample of sanding materials to determine if the materials meet the requirements of Subsection D. of this Section.

F. Reporting

1. Supplier Reporting Requirements. Prior to, or upon, delivery of sanding materials, suppliers shall provide affected entities that use their sanding materials a report demonstrating that the supplier has met all testing requirements of this Section applicable to the time period in which deliveries are made. The supplier shall certify in writing to the affected entity that the sanding materials meet the requirements of Subsection D. of this Section.
2. Affected Entity Reporting Requirements
 - a. Affected entities that use recycled sanding materials shall submit to the Authority copies of the results of testing conducted according to Subsection E.2. of this Section no later than 30 days after the tests are conducted.
 - b. No later than June 30, of each year, affected entities shall submit a report to the Authority containing information for the preceding season on:
 - 1) the total amount of sanding materials (both new and recycled) and salt and other deicing chemicals used;
 - 2) the number of lane miles sanded, salted and deiced; and
 - 3) the number of full deployment episodes; and
 - c. Within 7 calendar days of awarding a contract for the purchase of sanding materials to a supplier, an affected entity shall notify the Authority of the supplier's name and location of the aggregate sources from which the materials will be supplied.
 - d. Affected entities shall maintain on file reports received under the provisions of Subsection F.1. of this Section for a period of three (3) years.

3. Sweeper Reporting Requirements
 - a. Affected entities shall maintain monthly records to document the information described below. No later than June 30, of each year, each affected entity shall submit a report to the Authority that shall contain the information described below.
 - 1) Date of each sweeping operation;
 - 2) Priority lane miles swept;
 - 3) All other lane miles swept;
 - 4) Type of equipment used; and
 - 5) Number of passes on priority roadways.
 4. Authority Audits. All records generated under the provisions of this Section shall be made available for inspection upon request by the Authority.
- G. Alternate Test Methods and Standards. Alternate percent fines and durability index test procedures may be approved by the Authority should they be determined to provide a measure that is equivalent to the test procedures of this Section.
- H. Alternate Sanding Materials. Experimentation with new sanding materials may be approved by the Authority provided the Authority finds that the impact of such experiments will not cause a failure to maintain the 70% reduction in PM10 emissions from the 1992-93 base season, as described in Subsection C.

State effective: 06/03/07; EPA effective: 5/12/16 (70 FR 21470, April 12, 2016)

SECTION 6.15 STANDARDS FOR CONTROL OF PARTICULATE MATTER ON UNPAVED ROADS

- A. Applicability. The provisions of Section 6.15 shall apply to:
1. The City of Spokane, the Town of Millwood, Spokane County, and other governmental entities responsible for the maintenance of unpaved public roads within the PM10 Nonattainment Area; and

2. Those specific unpaved public roads which have been identified by Ecology or the Authority for inclusion in an implementation plan or a maintenance plan for control of PM10 emissions.

B. Definitions.

1. Authority means the Spokane Regional Clean Air Agency.
2. Ecology means the Washington Department of Ecology.
3. EPA means the United States Environmental Protection Agency or the Administrator of the United States Environmental Protection Agency or his/her designated representative.
4. Implementation Plan has the same meaning as in Section 110 of the Federal Clean Air Act (42 USC 7410).
5. Maintenance Plan has the same meaning as in Section 175A of the Federal Clean Air Act (42 USC 7505).
6. Palliative means salts and other hygroscopic materials, petroleum resins, asphalt emulsions, adhesives, chemical soil stabilizers or other surface treatment materials acting as a method of dust control, and not prohibited for use by any local, state, or federal law, rule, or regulation.
7. Paved means application of concrete, asphaltic concrete, asphalt, or combination thereof as a means of forming a permanent surface for a road.
8. PM10 Nonattainment Area means the Spokane County PM10 Nonattainment Area, defined in CFR Title 40, Part 81, as designated on November 15, 1990. This definition will remain in effect, even after EPA makes the determination that the PM10 standard that existed before September 16, 1997, no longer applies to Spokane County. Retaining the definition ensures compliance with the EPA's Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM10 NAAQS, dated December 29, 1997, by continuing implementation of control measures in the Implementation Plan and preserving air quality gains.
9. Reasonable Further Progress has the same meaning as in Section 171(1) of the Federal Clean Air Act (42 USC 7501).

- C. Emission Reduction and Control Plan. Each applicable governmental entity shall submit an Emission Reduction and Control Plan for approval by the Authority, which includes the following for each applicable unpaved road:
1. A schedule for paving, periodic application of palliative, or implementation of other control measures.
 2. Specification of the type of palliative to be applied and its application rate, paving specifications, or specifications of other control measures with sufficient detail for the Authority to determine emission reductions.
- D. Emission Reduction Contingency Plan. Each applicable governmental entity shall submit an Emission Reduction Contingency Plan for approval by the Authority, which includes the following for each applicable unpaved road:
1. A schedule for paving, periodic application of palliative, or implementation of other control measures.
 2. Specification of the type of palliative to be applied and its application rate, paving specifications, or specifications of other control measures with sufficient detail for the Authority to determine emission reductions.
- E. Effective dates. The applicable governmental entities shall comply with the following effective dates whenever an unpaved road is identified by Ecology or the Authority for control of PM10 emissions as part of an implementation plan:
1. For any unpaved road so identified prior to the effective date of Section 6.15 of this regulation, the entity shall submit the Emission Reduction and Control Plan or Emission Reduction Contingency Plan, whichever applies, within 60 days after the effective date.
 2. For any unpaved road so identified after the effective date of Section 6.15 of this regulation, the entity shall submit the Emission Reduction and Control Plan or Emission Reduction Contingency Plan, whichever applies, within 60 days after such identification.
- F. Approval and Implementation.
1. The Authority shall review the Emission Reduction and Control Plan submitted pursuant to Section 6.15.C. of this Regulation and within 60 days after approval by the Authority, the applicable governmental entity shall implement the plan.

2. The Authority shall review the Emission Reduction Contingency Plan submitted pursuant to Section 6.15.D of this Regulation and upon approval by the Authority and within 60 days after the EPA makes the findings in Section 6.15.G of this Regulation, the applicable governmental entity shall implement the plan.
 3. The Authority will not approve an Emission Reduction and Control Plan or an Emission Reduction Contingency Plan unless the Authority finds that the plans will achieve the total emission reductions required by the implementation plan. If the Authority finds that a plan will not achieve the required reductions, then the applicable governmental entity shall revise the plan to achieve the required reductions and resubmit the plan for review by the Authority.
- G. Findings by EPA. In the event the EPA determines that the Spokane PM10 Nonattainment Area has failed to make Reasonable Further Progress or has failed to timely attain a National Ambient Air Quality Standard for PM10 or has violated a National Ambient Air Quality Standard for PM10 after redesignation as an attainment area, and emissions from unpaved roads are determined by the EPA, in consultation with Ecology and the Authority, to be a contributing factor to such failure or violation, the applicable governmental entities shall comply with the requirements of Section 6.15.F.2 of this Regulation.
- H. Reporting. Within 6 months after the effective date of Section 6.15 of this Regulation, and annually thereafter as determined by the Authority, each applicable governmental entity shall submit a written report to the Authority which demonstrates compliance with the Emission Reduction and Control Plans and the Emission Reduction Contingency Plans.
- I. Failure to comply. Failure to comply with Section 6.15 of this Regulation will subject affected entities to penalties as provided in Article II of this Regulation.

State effective: 06/03/07; EPA effective: 5/12/16 (70 FR 21470, April 12, 2016)

Regulation I - Article VIII - Solid Fuel Burning Device Standards

SECTION 8.01 PURPOSE

This article establishes emission standards, certification standards and procedures, curtailment rules, and fuel restrictions for solid fuel burning devices in order to attain the National Ambient Air Quality Standards for fine particulate matter (PM2.5) and to further the policy of the Agency as stated in Article I, Section 1.01 of this Regulation.

State effective: 9/2/14; EPA effective: 10/28/15

SECTION 8.02 APPLICABILITY

The provisions of this article apply to solid fuel burning devices in all areas of Spokane County.

State effective: 9/2/14; EPA effective: 10/28/15

SECTION 8.03 DEFINITIONS

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

- A. Agency means the Spokane Regional Clean Air Agency.
- B. Coal stove means an enclosed, coal burning appliance capable of and intended for residential space heating, domestic water heating or indoor cooking, which has all the following characteristics:
 - 1. An opening for loading coal which is located near the top or side of the appliance; and
 - 2. An opening for emptying ash which is located near the bottom or the side of the appliance; and
 - 3. A system which admits air primarily up and through the fuel bed; and
 - 4. A grate or other similar device for shaking or disturbing the fuel bed; and
 - 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.
- C. Commercial establishment is defined to include an establishment possessing a valid business license issued by a governmental entity.
- D. Cook stove means an appliance designed with the primary function of cooking food and containing an integrally built in oven with a volume of 1 cubic foot or greater where the cooking surface measured in square inches or square feet is one and one-half times greater than the firebox measured in cubic inches or cubic feet (e.g. a firebox of 2 cubic

feet would require a cooking surface of at least 3 square feet). It must have an internal temperature indicator and oven rack, around which the fire is vented, as well as a shaker grate ash pan and an ash cleanout below the firebox. Any device with a fan or heat channels used to dissipate heat into the room shall not be considered a cook stove. A portion of at least four sides of the oven must be exposed to the flame path during the oven heating cycle, while a flue gas bypass will be permitted for temperature control. Devices designed or advertised as room heaters that also bake or cook do not qualify as cook stoves.

- E. Ecology means the Washington State Department of Ecology.
- F. EPA means the United States Environmental Protection Agency or the Administrator of the United States Environmental Protection Agency or his/her designated representative.
- G. EPA Certified means a woodstove certified and labeled by EPA under “40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters”
- H. Fireplace means a permanently installed masonry fireplace; or a factory-built solid fuel burning device designed to be used with an air-to-fuel ratio greater than or equal to thirty-five to one and without features to control the inlet air-to-fuel ratio other than doors or windows such as may be incorporated into the fireplace design for reasons of safety, building code requirements, or aesthetics.
- I. National Ambient Air Quality Standards (NAAQS; 40 CFR 50) means outdoor air quality standards established by the United States Environmental Protection Agency under authority of the federal Clean Air Act. EPA set standards for six principal air pollutants, called “criteria” pollutants, under the NAAQS. The criteria pollutants are carbon monoxide, sulfur dioxide, nitrogen dioxide, lead, ozone and particulate matter (PM_{2.5} and PM₁₀).
- J. Non-affected pellet stove means that a pellet stove has an air-to-fuel ratio equal to or greater than 35:1 when tested by an accredited laboratory in accordance with methods and procedures specified by the EPA in "40 C.F.R. 60 Appendix A, REFERENCE METHOD 28A - MEASUREMENT OF AIR TO FUEL RATIO AND MINIMUM ACHIEVABLE BURN RATES FOR WOOD-FIRED APPLIANCES" as amended through July 1, 1990.
- K. Nonattainment Area means a clearly delineated geographic area which has been designated by the Environmental Protection Agency because it does not meet, or it affects ambient air quality in a nearby area that does not meet, a national ambient air quality standard or standards for one or more of the criteria pollutants defined in 40 CFR 50, National Ambient Air Quality Standards.

- L. Oregon Certified means a woodstove manufactured prior to 1989 which meets the “Oregon Department of Environmental Quality Phase 2” emissions standards contained in Subsections (2) and (3) of Section 340-21-115, and certified in accordance with “Oregon Administrative Rules, Chapter 340, Division 21 – Woodstove Certification” dated November 1984.
- M. PM_{2.5} means particulate matter with a nominal aerodynamic diameter of two and one half micrometers and smaller measured as an ambient mass concentration in units of micrograms per cubic meter of air. Also called fine particulate matter.
- N. PM₁₀ means particulate matter with a nominal aerodynamic diameter of ten micrometers and smaller measured as an ambient mass concentration in units of micrograms per cubic meter of air.
- O. Seasoned Wood means wood of any species that has been sufficiently dried so as to contain twenty percent or less moisture by weight.
- P. Solid Fuel Burning Device means a device that is designed to burn wood, coal, or any other nongaseous or nonliquid fuels, and includes woodstoves, coal stoves, cook stoves, pellet stoves, and fireplaces, or any similar device burning any solid fuel. It includes devices used for aesthetic or space-heating purposes in a private residence or commercial establishment, which have a heat input less than one million British thermal units per hour.
- Q. Smoke Control Zone means the Spokane/Spokane Valley Metropolitan area and surrounding geographic areas affected by combustion smoke from solid fuel burning devices, after consideration of the contribution of devices that are not Washington certified devices, population density and urbanization, and effect on the public health (RCW 70.94.477(2)(a),(b) and (c)), is defined as follows:
- Sections 1 through 6, Township 24 N, Range 42 E; Townships 25 and 26 N, Range 42 E; Sections 1 through 24, Township 24 N, Range 43 N; Townships 25, 26 and 27 N, Range 43 E; Sections 19 through 36, Township 28 N, Range 43 E; Sections 1 through 24, Township 24 N, Range 44 E; Township 25 N, Range 44 E; Sections 19 through 36, Township 26 N, Range 44 E; Township 25 N, Range 45 E; Sections 1 through 4, 9 through 16 and 19 through 36, Township 26 N, Range 45 E; Sections 33 through 36, Township 27 N, Range 45 E; Sections 6, 7, 18, 19, 30, and 31, Township 25 N, Range 46 E; Sections 6, 7, 18, 19, 30 and 31, Township 26 N, Range 46 E; Section 31, Township 27 N, Range 46 E.
- R. Treated Wood means wood of any species that has been chemically impregnated, painted,

or similarly modified to improve resistance to insects, fungus or weathering.

- S. Washington Certified Device means a solid fuel burning device, other than a fireplace, which has been determined by Ecology to meet emission performance standards, pursuant to RCW 70.94.457 and WAC 173-433-100(3).
- T. Woodstove means an enclosed solid fuel burning device capable of and intended for residential space heating and domestic water heating that meets the following criteria contained in "40 C.F.R. 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" as amended through July 1, 1990:
1. An air-to-fuel ratio in the combustion chamber averaging less than 35:1 as determined by EPA Reference Method 28A; and
 2. A useable firebox volume of less than twenty cubic feet; and
 3. A minimum burn rate less than 5 kg/hr as determined by EPA Reference Method 28; 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.

State effective: 9/2/14; EPA effective: 10/28/15

SECTION 8.04 EMISSION PERFORMANCE STANDARDS

The Agency adopts Chapter 173-433 WAC by reference and Title 40, Part 60, Subpart AAA of the Code of Federal Regulations "Standards of Performance for New Residential Wood Heaters" by reference.

State effective: 9/2/14; EPA effective: 10/28/15

SECTION 8.05 OPACITY STANDARDS

A. Opacity Limit

A person shall not cause or allow emission of a smoke plume from any solid fuel burning

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device to exceed an average of twenty percent opacity for six consecutive minutes in any one-hour period.

B. Test Method and Procedures

EPA reference method 9 – Visual Determination of Opacity of Emissions from Stationary Sources – shall be used to determine compliance with Section 8.05.A.

C. Enforcement

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

State effective: 9/2/14; EPA effective: 10/28/15

SECTION 8.06 PROHIBITED FUEL TYPES

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

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

State effective: 9/2/14; EPA effective: 10/28/15

SECTION 8.07 CURTAILMENT (BURN BAN)

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

1. Air Pollution Episode

Whenever Ecology has declared curtailment under an alert, warning, or emergency air pollution episode for the geographical area pursuant to Chapter 173-435 WAC and RCW 70.94.715.

2. Stage 1 Burn Ban

Whenever the Agency has declared curtailment under a first stage of impaired air quality for the Smoke Control Zone or other geographical area unless the solid fuel burning device is one of the following:

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

In Spokane County as allowed by RCW 70.94.473(1)(b)(i) a first stage of impaired air quality is reached and curtailment may be declared when the Agency determines that particulate matter with a nominal aerodynamic diameter of two and one half micrometers and smaller (PM_{2.5}), measured as an ambient mass concentration at any location within Spokane County using a method which has been determined by Ecology or the Agency to have a reliable correlation to the federal reference method, CFR Title 40 Part 50 Appendix L, and updated hourly as a twenty-four hour running average, is likely to exceed thirty-five micrograms per cubic meter of air within forty-eight hours based on forecasted meteorological conditions.

3. Stage 2 Burn Ban

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

- a. Issuing a Stage 2 Burn Ban Following a Stage 1 Burn Ban
 - 1) A first stage of impaired air quality has been in force for a period

of twenty-four hours or longer and, in the Agency's judgment, has not reduced the PM2.5 ambient mass concentration, measured as a twenty-four hour running average, sufficiently to prevent it from exceeding thirty-five micrograms per cubic meter of air at any location inside Spokane County within twenty-four hours; and

- 2) A twenty-four hour running average PM2.5 ambient mass concentration equal to or greater than twenty-five micrograms per cubic meter of air is measured at any location inside Spokane County using a method which has been determined by Ecology or the Agency to have a reliable correlation to the federal reference method, CFR Title 40 Part 50 Appendix L, or equivalent; and
- 3) The Agency does not expect meteorological conditions to allow ambient mass concentrations of PM2.5 measured as a twenty-four hour running average to decline below twenty-five micrograms per cubic meter of air for a period of twenty-four hours or more from the time that it is measured at that concentration.

b. Issuing a Stage 2 Burn Ban Without First Declaring a Stage 1 Burn Ban

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

- 1) The ambient mass concentration of PM2.5 at any location inside Spokane County has reached or exceeded twenty-five micrograms per cubic meter, measured as a running twenty-four hour average using a method which has been determined, by Ecology or the Agency, to have a reliable correlation to the federal reference method, CFR Title 40 Part 50 Appendix L, or equivalent; and
- 2) Meteorological conditions have caused PM2.5 ambient mass concentrations to rise rapidly; and
- 3) The Agency predicts that meteorological conditions will cause PM2.5 ambient mass concentrations measured as a twenty-four hour running average to exceed thirty-five micrograms per cubic meter of air within twenty-four hours; and
- 4) Meteorological conditions are highly likely to prevent smoke from dispersing sufficiently to allow PM2.5 ambient mass concentrations to decline below twenty-five micrograms per cubic

meter of air within twenty-four hours.

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

4. The following matrix graphically illustrates the applicability of Sections 8.07.A.1-3 of this Regulation.

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

5. After July 1, 1995, if the limitation in RCW 70.94.477(2) is exercised, following the procedure in Section 8.09 (Procedure to Geographically Limit Solid Fuel Burning Devices), and the solid fuel burning device is not one of the following:
- a. A nonaffected pellet stove; or
 - b. Washington Certified Device; or
 - c. EPA Certified Woodstove; or
 - d. Oregon Certified Woodstove.
- B. In consideration of declaring curtailment under a stage of impaired air quality, the Agency shall consider the anticipated beneficial effect on ambient concentrations of PM_{2.5}, taking into account meteorological factors, the contribution of emission sources other than solid fuel burning devices, and any other factors deemed to affect the PM_{2.5} mass concentration.
- C. Any person responsible for a solid fuel burning device which is subject to curtailment and is already in operation at the time curtailment is declared under an episode or a stage of

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

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

State effective: 9/2/14; EPA effective: 10/28/15

SECTION 8.08 EXEMPTIONS

A. Categories

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

1. Low Income

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

2. No Adequate Source of Heat

An exemption may be issued if all of the following apply:

- a. The residence was constructed prior to July 1, 1992; and
- b. The residence was originally constructed with a solid fuel burning device as a source of heat; and
- c. A person in a residence does not have an adequate source of heat without

using a solid fuel burning device (RCW 70.94.477(6)(a)).

- 1) Adequate source of heat means the ability to maintain seventy degrees Fahrenheit at a point three feet above the floor in all normally inhabited areas of a dwelling (WAC 173-433-030(1)); and
- 2) If any part of the heating system has been disconnected / removed, damaged, or is otherwise nonfunctional, the Agency shall base the assessment of the adequacy of design for providing an adequate source of heat in Section 8.08A.2.c.1), above, on the system's capability prior to the disconnection/removal, damage, improper maintenance, malfunction, or occurrence that rendered the system nonfunctional.

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

3. Primary Heating Source Temporarily Inoperable

That his/her heating system, other than a solid fuel burning device, is temporarily inoperable for reasons other than his/her own actions. When applying for this exemption, the applicant must submit a compliance schedule for bringing his/her heating system, other than a solid fuel burning device, back into operation to be used as his/her primary heating source. Unless otherwise approved by SRCAA, 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.

4. State of Emergency

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

B. Exemption Duration and Renewals

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

C. Fees

Exemption requests must be accompanied by fees specified in Article X Section 10.10 and SRCAA's fee schedule. For exemptions which are requested and qualify under the low income exemption in Section 8.08.A.1, the fee is waived.

D. One-Time, 10-Day Temporary Exemption

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

1. Full name; and
2. Mailing address; and
3. Telephone number; and
4. Acknowledgement that he/she believes he/she qualifies for an exemption pursuant to Section 8.08.A.1, 2, or 3; and
5. Physical address where the exemption applies; and
6. Description of the habitable space for which the exemption is being requested; and
7. Acknowledge that s/he has not previously requested such an exemption for the same physical address, except as provided below, and that all of the information provided is accurate.

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

E. Residential and Commercial Exemption Limitations

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

State effective: 9/2/14; EPA effective: 10/28/15

SECTION 8.09 PROCEDURE TO GEOGRAPHICALLY LIMIT SOLID FUEL BURNING DEVICES

- A. If the EPA finds that the Spokane PM10 Maintenance Area has violated a National Ambient Air Quality Standard for PM10 and emissions from solid fuel burning devices are determined by the EPA, in consultation with Ecology and the Agency, to be a contributing factor to such failure or violation, then one year after such determination, the use of solid fuel burning devices not meeting the standards set forth in RCW 70.94.457 and WAC 173-433-100, is restricted to areas outside the Smoke Control Zone.
- B. Within 30 days of the determination pursuant to Section 8.09 A., the Agency shall publish a public notice in a newspaper of general circulation, informing the public of such determination and of the date by which such restriction on the use of solid fuel burning devices becomes effective.
- C. Nothing in Section 8.09 shall apply to persons who have obtained an exemption pursuant to Section 8.08.

State effective: 9/2/14; EPA effective: 10/28/15

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

A. Installation of Solid Fuel Burning Devices

No person shall install a new or used solid fuel burning device that is not a Washington certified device in any new or existing building or structure unless the device is a cook stove or a device which has been rendered permanently inoperable.

B. Sale or Transfer of Solid Fuel Burning Devices

No person shall sell, offer for sale, advertise for sale, or otherwise transfer a new or used solid fuel burning device that is not a Washington certified device to another person unless the device is a cook stove or a device which has been rendered permanently inoperable (RCW 70.94.457(1)(a)).

C. Sale or Transfer of Fireplaces

No person shall sell, offer for sale, advertise for sale, or otherwise transfer a new or used fireplace to another person, except masonry fireplaces, unless such fireplace meets the 1990 United States environmental protection agency standards for wood stoves or equivalent standard that may be established by the state building code council by rule (RCW 70.94.457(1)(b)).

D. Sale or Transfer of Masonry Fireplaces

No person shall build, sell, offer for sale, advertise for sale, or otherwise transfer a new or used masonry fireplace, unless such fireplace meets Washington State building code design standards as established by the state building code council by rule (RCW 70.94.457(1)(c)).

State effective: 9/2/14; EPA effective: 10/28/15

Regulation II - Article IV - Emissions Prohibited

SECTION 4.01 - PARTICULATE EMISSIONS - GRAIN LOADING RESTRICTIONS

It shall be unlawful for any person to cause or allow the emission of particulate matter into the atmosphere from any single source:

A. Which is in excess of 0.1 grains per cubic foot of gas at standard conditions for non-combustion sources.

B. Which is in excess of 0.1 grains per cubic foot of gas calculated to 12% of carbon dioxide (CO₂) at standard conditions for combustion sources.

State effective: 4/26/79; EPA effective: 6/5/80

Washington Department of Ecology Regulations

WAC 173-400 -- GENERAL REGULATIONS FOR AIR POLLUTION SOURCES

173-400-010 Policy and Purpose.

(1) It is the policy of the Department of Ecology (Ecology) under the authority vested in it by chapter 43.21A RCW to provide for the systematic control of air pollution from air contaminant sources and for the proper development of the state's natural resources.

(2) It is the purpose of this chapter to establish technically feasible and reasonably attainable standards and to establish rules generally applicable to the control and/or prevention of the emission of air contaminants.

State effective: 3/22/91; EPA effective: 6/2/95

173-400-020 Applicability.

(1) The provisions of this chapter shall apply state-wide.

(2) An authority may enforce this chapter and may also adopt standards or requirements. These standards or requirements may not be less stringent than the current state air quality rules and may be more stringent than the current regulations. Unless properly delegated by ecology, authorities do not have jurisdiction over the following sources:

- (a) Specific source categories over which the state, by separate regulation, has assumed or hereafter does assume jurisdiction.
- (b) Automobiles, trucks, aircraft.
- (c) Those sources under the jurisdiction of the energy facility site evaluation council.

State effective: 3/22/91; EPA effective: 6/2/95

173-400-030 Definitions.

Except as provided elsewhere in this chapter, the following definitions apply throughout the chapter:

(1) "Actual emissions" means the actual rate of emissions of a pollutant from an emission unit, as determined in accordance with (a) through (c) of this subsection.

(a) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. Ecology or an authority shall allow the use of a different time period upon a determination that it is more representative of normal 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) Ecology or an authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the emissions unit.

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

(2) "Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairment, and how these factors correlate with (a) times of visitor use of the Federal Class I area, and (b) the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas.

(3) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. "Air pollutant" means the same as "air contaminant."

(4) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities, and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property. For the purposes of this chapter, 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.

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

(a) The applicable standards as set forth in 40 CFR Part 60 or 61;

(b) Any applicable state implementation plan 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.

(6) "Ambient air" means the surrounding outside air.

(7) "Ambient air quality standard" means an established concentration, exposure time, and frequency of occurrence of air contaminant(s) in the ambient air which shall not be exceeded.

(8) "Authority" means any air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries of one or more counties.

(9) "Best available control technology (BACT)" means an emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation under chapter 70.94 RCW emitted from or which results from any new or modified stationary source, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such 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 Part 60 and Part 61, as they exist on May 7, 1993, or their later enactments as adopted by reference by the director by rule. Emissions from any 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.

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

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

(12) "Capacity factor" means the ratio of the average load on equipment or a machine for the

period of time considered, to the manufacturer's capacity rating of the machine or equipment.

(13) "Class I area" means any area designated pursuant to §§ 162 or 164 of the Federal Clean Air Act as a Class I area. The following areas are the Class I areas in Washington state:

Alpine Lakes Wilderness;
Glacier Peak Wilderness;
Goat Rocks Wilderness;
Mount Adams Wilderness;
Mount Rainier National Park;
North Cascades National Park;
Olympic National Park;
Pasayten Wilderness;
Spokane Indian Reservation.

(14) "Combustion and incineration sources" means units using combustion for waste disposal, steam production, chemical recovery or other process requirements; but excludes open burning.

(15) "Commenced construction" means that the owner or operator has all the necessary preconstruction approvals or permits and either has:

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

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

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

(17) "Director" means director of the Washington state department of ecology or duly authorized representative.

(18) "Dispersion technique" means a method which attempts to affect the concentration of a pollutant in the ambient air other than by the use of pollution abatement equipment or integral process pollution controls.

(19) "Ecology" means the Washington state department of ecology.

- (20) "Emission" means a release of air contaminants into the ambient air.
- (21) "Emission reduction credit (ERC)" means a credit granted pursuant to WAC 173-400-131. This is a voluntary reduction in emissions.
- (22) "Emission standard" and "emission limitation" means a requirement established under the FCAA or chapter 70.94 RCW which limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction and any design, equipment work practice, or operational standard promulgated under the FCAA or chapter 70.94 RCW.
- (23) "Emissions unit" means any part of a stationary source or source which emits or would have the potential to emit any pollutant subject to regulation under the FCAA, chapter 70.94 or 70.98 RCW.
- (24) "Excess emissions" means emissions of an air pollutant in excess of any applicable emission standard.
- (25) "Excess stack height" means that portion of a stack which exceeds the greater of sixty-five meters or the calculated stack height described in WAC 173-400-200(2).
- (26) "Existing stationary facility" means a stationary source of air pollutants which has the potential to emit two hundred fifty tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted. For purposes of determining whether a stationary source is an existing stationary facility the term "building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement.
- (27) "Federal Clean Air Act (FCAA)" means the Federal Clean Air Act, also known as Public Law 88-206, 77 Stat. 392, December 17, 1963, 42 U.S.C. 7401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.
- (28) "Federal land manager" means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.
- (29) "Fossil fuel-fired steam generator" means a device, furnace, or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.
- (30) "Fugitive dust" means 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 originate fugitive dust. Fugitive dust is a type of fugitive emission.

(31) "Fugitive emissions" means emissions which do not pass and which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(32) "General process unit" means an emissions unit using a procedure or a combination of procedures for the purpose of causing a change in material by either chemical or physical means, excluding combustion.

(33) "Good engineering practice (GEP)" refers to a calculated stack height based on the equation specified in WAC 173-400-200 (2)(a)(ii).

(34) "Incinerator" means a furnace used primarily for the thermal destruction of waste.

(35) "In operation" means engaged in activity related to the primary design function of the source.

(36) "Integral vista" means a view perceived from within a mandatory Class I federal area of a specific landmark or panorama located outside the boundary of the mandatory Class I federal area.

(37) "Lowest achievable emission rate (LAER)" means for any source that rate of emissions which reflects the more stringent of:

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

(b) The most stringent emission limitation which is achieved in practice by such class or category of source.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source performance standards.

(38) "Mandatory Class I federal area" means any area defined in Section 162(a) of the FCAA. The mandatory Class I federal areas in Washington state are as follows:

Alpine Lakes Wilderness;

Glacier Peak Wilderness;

Goat Rocks Wilderness;

Mount Adams Wilderness;
Mount Rainier National Park;
North Cascades National Park;
Olympic National Park;
Pasayten Wilderness;

(39) "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the FCAA. Any net emissions increase that is considered significant for volatile organic compounds or nitrogen oxides shall be considered significant for ozone. A physical change or change in the method of operation shall not include:

- (a) Routine maintenance, repair, and replacement;
- (b) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Supply Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;
- (c) Use of an alternative fuel by reason of an order or rule under section 125 of the FCAA, 42 U.S.C. 7425;
- (d) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
- (e) Use of an alternative fuel or raw material by a stationary source which:
 - (i) The stationary source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 12, 1976, in a prevention of significant deterioration permit or notice of construction approval; or
 - (ii) The stationary source is approved to use under any federally-enforceable notice of construction approval or a PSD permit issued by the environmental protection agency;
- (f) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976, in a prevention of significant deterioration permit or a notice of construction approval;
- (g) Any change in ownership at a stationary source.

(40) "Major stationary source" means:

(a) Any stationary source which:

(i) Emits or has the potential to emit one hundred tons per year or more of any air contaminant regulated by the state or Federal Clean Air Acts; or

(ii) Is located in a "marginal" or "moderate" ozone nonattainment area and which emits or has the potential to emit one hundred tons per year or more of volatile organic compounds or oxides of nitrogen.

(b) Any stationary source (or group of stationary sources) which:

(i) Is located in a "serious" carbon monoxide nonattainment area where stationary sources contribute significantly to carbon monoxide levels and which emits or has the potential to emit fifty tons per year or more of carbon monoxide; or

(ii) Is located in a "serious" particulate matter (PM₁₀) nonattainment area and which emits or has the potential to emit seventy tons per year or more of PM₁₀ emissions.

(c) Any physical change that would occur at a stationary source not qualifying under (a) or (b) of this subsection as a major stationary source, if the change would constitute a major stationary source by itself;

(d) A major stationary source that is major for VOCs or NO_x shall be considered major for ozone;

(e) The fugitive emissions of a stationary source shall not be included in determining whether it is a major stationary source, unless the stationary source belongs to one of the following categories of stationary sources or the source is a major stationary source due to (b) of this subsection:

(i) Coal cleaning plants (with thermal dryers);

(ii) Kraft pulp mills;

(iii) Portland cements plants;

(iv) Primary zinc smelters;

- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than two hundred fifty tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than two hundred fifty million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;

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(xxv) Charcoal production plants;

(xxvi) Fossil fuel-fired steam electric plants of more than two hundred fifty million British thermal units per hour heat input; and

(xxvii) Any other stationary source category which, as of August 7, 1980, was being regulated under sections 111 or 112 of the Federal Clean Air Act.

(f) For purposes of determining whether a stationary source is a major stationary source, the term "building, structure, facility, or installation" means all the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement.

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

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

(43) "Modification" means any physical change in, or change in the method of operation of, a stationary source that increases the amount of any air contaminant emitted by such 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.

(44) "National Emission Standards for Hazardous Air Pollutants (NESHAPS)" means the federal regulations set forth in 40 CFR Part 61.

(45) "Natural conditions" means naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

(46) "Net emissions increase" means:

(a) The amount by which the sum of the following exceeds zero:

(i) Any increase in actual emissions from a particular change or change in method of operation at a source; and

(ii) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

- (b) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date ten years before construction on the particular change commences and the date that the increase from the particular change occurs.
- (c) An increase or decrease in actual emissions is creditable only if:
 - (i) It occurred no more than one year prior to the date of submittal of a complete notice of construction application for the particular change, or it has been documented by an emission reduction credit, in which case the credit shall expire ten years after the date of original issue of the ERC. Any emissions increases occurring between the date of issuance of the ERC and the date when a particular change becomes operational shall be counted against the ERC.
 - (ii) Ecology or the authority has not relied on it in issuing any permit or order of approval for the source under regulations approved pursuant to 40 CFR 51 Subpart I or the EPA has not relied on it in issuing a PSD permit pursuant to 40 CFR 52.21, which order or permit is in effect when the increase in actual emissions from the particular change occurs.
- (d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
- (e) A decrease in actual emissions is creditable only to the extent that:
 - (i) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;
 - (ii) It is federally enforceable at and after the time that actual construction on the particular change begins;
 - (iii) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and
 - (iv) Ecology or the authority has not relied on it in issuing any permit or order of approval under regulations approved pursuant to 40 CFR 51 Subpart I, the EPA has not relied on it in issuing a PSD permit pursuant to 40 CFR 52.21, or ecology or the authority has not relied on it in demonstrating attainment or reasonable further progress.
- (f) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular

pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty days.

(47) "New source" means:

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

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

(48) "New source performance standards (NSPS)" means the federal regulations set forth in 40 CFR Part 60.

(49) "Nonattainment area" means a clearly delineated geographic area which has been designated by EPA promulgation as exceeding a national ambient air quality standard or standards for one or more of the criteria pollutants.

(50) "Notice of construction application" means a written application to permit construction of a new source, modification of an existing stationary source or replacement or substantial alteration of control technology at an existing stationary source.

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

(52) "Open burning" means the combustion of material in an open fire or in an outdoor container, without providing for the control of combustion or the control of the emissions from the combustion. Wood waste disposal in wigwam burners is not considered open burning.

(53) "Order" means any order issued by ecology or a local air authority pursuant to chapter 70.94 RCW, including, but not limited to RCW 70.94.332, 70.94.152, 70.94.153, and 70.94.141(3), and includes, where used in the generic sense, the terms order, corrective action order, order of approval, and regulatory order.

(54) "Order of approval" or "approval order" means a regulatory order issued by ecology or the authority 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.

(55) "Particulate matter" or "particulates" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

(56) "Particulate matter emissions" means all finely divided solid or liquid material, other than

uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method specified in 40 CFR Part 60 or by a test method specified in the Washington state implementation plan.

(57) "Parts per million (ppm)" means parts of a contaminant per million parts of gas, by volume, exclusive of water or particulates.

(58) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

(59) "PM-10" means 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.

(60) "PM-10 emissions" means finely divided solid or liquid material, including condensable 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 Washington state implementation plan.

(61) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the 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.

(62) "Prevention of significant deterioration (PSD)" means the program set forth in WAC 173-400-141.

(63) "Projected width" means that dimension of a structure determined from the frontal area of the structure, projected onto a plane perpendicular to a line between the center of the stack and the center of the building.

(64) "Reasonably attributable" means attributable by visual observation or any other technique the state deems appropriate.

(65) "Reasonably available control technology (RACT)" means the lowest emission limit that a particular 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 source or source category taking

into account the impact of the 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 source or source category shall be adopted only after notice and opportunity for comment are afforded.

(66) "Regulatory order" means an order issued by ecology or an authority to an air contaminant source which applies to that source, any applicable provision of chapter 70.94 RCW, or the rules adopted thereunder, or, for sources regulated by a local air authority, the regulations of that authority.

(67) "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emission equal to or greater than any one of the following rates:

Pollutant	Tons/Year
Carbon monoxide	100
Nitrogen oxides	40
Sulfur dioxide	40
Particulate matter (PM)	25
Fine particulate matter (PM ₁₀)	15
Volatile organic compounds (VOC)	40
Lead	0.6
Fluorides	3
Sulfuric acid mist	7
Hydrogen sulfide (H ₂ S)	10
Total reduced sulfur (including H ₂ S)	10
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	0.0000035
Municipal waste combustor metals (measured as PM)	15
Municipal waste combustor acid gases (measured as SO ₂ and hydrogen chloride)	40

(68) "Significant visibility impairment" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of visitor visual experience of the Class I area. The determination must be made on a case-by-case basis, taking into account the geographic extent, intensity, duration, frequency, and time of the visibility impairment, and how these factors correlate with the time of visitor use of the Class I area and frequency and timing of natural conditions that reduce visibility.

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

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

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

(72) "Stack height" means the height of an emission point measured from the ground-level elevation at the base of the stack.

(73) "Standard conditions" means a temperature of 20° (68° F) and a pressure of 760 mm (29.92 inches) of mercury.

(74) "Stationary source" means any building, structure, facility, or installation which emits or may emit any 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 of the FCAA.

(75) "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge.

(76) "Total reduced sulfur (TRS)" means the sum of the sulfur compounds hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides emitted and measured by EPA method 16 or an approved equivalent method and expressed as hydrogen sulfide.

(77) "Total suspended particulate" means particulate matter as measured by the method described in 40 CFR Part 50 Appendix B as in effect on July 1, 1988.

(78) "United States Environmental Protection Agency (USEPA)" shall be referred to as EPA.

(79) "Visibility impairment" means any perceptible degradation in visibility (visual range, contrast, coloration) not caused by natural conditions.

(80) "Visibility impairment of Class I areas" means visibility impairment within the area and visibility impairment of any formally designated integral vista associated with the area.

(81) "Volatile organic compound (VOC)" means:

(a) Any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. This includes any organic compound other than the following, which have negligible photochemical reactivity: Methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,1-trichloro 2,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (CFC-22); trifluoromethane (FC-23); 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro 1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); and perfluorocarbon compounds which fall into these classes:

- (i) Cyclic, branched, or linear completely fluorinated alkanes;
- (ii) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations; and
- (iii) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(b) For the purpose of determining compliance with emission limits, VOC will be measured by the appropriate methods in 40 CFR Part 60 Appendix A. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by ecology or the authority.

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

State effective: 9/20/93; EPA effective: 6/2/95

173-400-040 General Standards for Maximum Emissions.

All sources and emissions units are required to meet the emission standards of this chapter.

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Where an emission standard listed in another chapter is applicable to a specific emissions unit, such standard will take precedent over a general emission standard listed in this chapter. When two or more emissions units are connected to a common stack and the operator elects not to provide the means or facilities to sample emissions from the individual emissions units, and the relative contributions of the individual emissions units to the common discharge are not readily distinguishable, then the emissions of the common stack must meet the most restrictive standard of any of the connected emissions units. Further, all emissions units are required to use reasonably available control technology (RACT) which may be determined for some sources or source categories to be more stringent than the applicable emission limitations of any chapter of Title 173 WAC. Where current controls are determined to be less than RACT, ecology or the authority shall, as provided in section 8, chapter 252, Laws of 1993, define RACT for each source or source category and issue a rule or regulatory order requiring the installation of RACT.

(1) Visible emissions. No person shall cause or permit the emission for more than three minutes, in any one hour, of an air contaminant from any emissions unit which at the emission point, or within a reasonable distance of the emission point, exceeds twenty percent opacity except:

(a) When the emissions occur due to soot blowing/grate cleaning and the operator can demonstrate that the emissions will not exceed twenty percent opacity for more than fifteen minutes in any eight consecutive hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary to the operation of boiler facilities. This practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and ecology or the authority be advised of the schedule.

(b) When the owner or operator of a source supplies valid data to show that the presence of uncombined water is the only reason for the opacity to exceed twenty percent.

~~(c) When two or more sources are connected to a common stack, ecology or the authority may allow or require the use of an alternate time period if it is more representative of normal operations.~~

~~(d) When an alternate opacity limit has been established per RCW 70.94.331 (2)(c).~~

~~(2) Fallout. No person shall cause or permit the emission of particulate matter from any source to be deposited beyond the property under direct control of the owner(s) or operator(s) of the source in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material is deposited.~~

(3) Fugitive emissions. The owner or operator of any emissions unit engaging in materials handling, construction, demolition or any other operation which is a source of fugitive emission:

(a) If located in an attainment area and not impacting any nonattainment area, shall take

reasonable precautions to prevent the release of air contaminants from the operation.

(b) If the emissions unit has been identified as a significant contributor to the nonattainment status of a designated nonattainment area, shall be required to use reasonable and available control methods, which shall include any necessary changes in technology, process, or other control strategies to control emissions of the contaminants for which nonattainment has been designated.

~~(4) Odors. 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 property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.~~

(5) Emissions detrimental to persons or property. No person shall cause or permit the emission of any 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.

(6) Sulfur dioxide.

No person shall cause or permit the emission of a gas containing sulfur dioxide from any emissions unit in excess of one thousand ppm of sulfur dioxide on a dry basis, corrected to seven percent oxygen for combustion sources, and based on the average of any period of sixty consecutive minutes, except:

~~When the owner or operator of an emissions unit supplies emission data and can demonstrate to ecology or the authority that there is no feasible method of reducing the concentration to less than one thousand ppm (on a dry basis, corrected to seven percent oxygen for combustion sources) and that the state and federal ambient air quality standards for sulfur dioxide will not be exceeded. In such cases, ecology or the authority may require specific ambient air monitoring stations be established, operated, and maintained by the owner or operator at mutually approved locations. All sampling results will be made available upon request and a monthly summary will be submitted to ecology or the authority.~~

(7) Concealment and masking. No person shall cause or permit the installation or use of any means which conceals or masks an emission of an air contaminant which would otherwise violate any provisions of this chapter.

(8) Fugitive dust sources.

(a) The owner or operator of a source of fugitive dust shall take reasonable precautions to prevent fugitive dust from becoming airborne and shall maintain and operate the source to minimize emissions.

(b) The owner(s) or operator(s) of any existing source(s) of fugitive dust that has been

identified as a significant contributor to a PM-10 nonattainment area shall be required to use reasonably available control technology to control emissions. Significance will be determined by the criteria found in WAC 173-400-113(3).

State effective: 9/20/93; EPA effective: 6/2/95

173-400-050 Emission Standards for Combustion and Incineration Units.

(1) Combustion and incineration emissions units must meet all requirements of WAC 173-400-040 and, in addition, no person shall cause or permit emissions of particulate matter in excess of 0.23 gram per dry cubic meter at standard conditions (0.1 grain/dscf), except, for an emissions unit combusting wood derived fuels for the production of steam. No person shall allow or permit the emission of particulate matter in excess of 0.46 gram per dry cubic meter at standard conditions (0.2 grain/dscf), as measured by EPA method 5 or approved procedures contained in "*Source Test Manual - Procedures For Compliance Testing*," state of Washington, department of ecology, as of July 12, 1990, on file at ecology.

(2) For any incinerator, no person shall cause or permit emissions in excess of one hundred ppm of total carbonyls as measured by applicable EPA methods or acceptable procedures contained in "*Source Test Manual - Procedures for Compliance Testing*," state of Washington, department of ecology, on file at ecology. Incinerators shall be operated only during daylight hours unless written permission to operate at other times is received from ecology or the authority.

(3) Measured concentrations for combustion and incineration sources shall be adjusted for volumes corrected to seven percent oxygen, ~~except when ecology or the authority determines that an alternate oxygen correction factor is more representative of normal operations.~~

State effective: 3/22/91; EPA effective: 6/2/95

173-400-060 Emission Standards for General Process Units.

General process units are required to meet all applicable provisions of WAC 173-400-040 and, no person shall cause or permit the emission of particulate material from any general process operation in excess of 0.23 grams per dry cubic meter at standard conditions (0.1 grain/dscf) of exhaust gas. EPA test methods from 40 CFR Appendix A which are adopted by reference and any other approved test procedures which are contained in ecology's "*Source Test Manual - Procedures For Compliance Testing*" as of July 12, 1990, will be used to determine compliance.

State effective: 3/22/91; EPA effective: 6/2/95

173-400-070 Emission Standards for Certain Source Categories.

Ecology finds that the reasonable regulation of sources within certain categories requires separate standards applicable to such categories. The standards set forth in this section shall be the maximum allowable standards for emissions units within the categories listed. Except as specifically provided in this section, such emissions units shall not be required to meet the provisions of WAC 173-400-040, 173-400-050 and 173-400-060.

(1) Wigwam burners.

(a) All wigwam burners shall meet all provisions of WAC 173-400-040 (2), (3), (4), (5), (6), and (7).

(b) All wigwam burners shall use RACT. All emissions units shall be operated and maintained to minimize emissions. These requirements may include a controlled tangential vent overfire air system, an adequate underfire system, elimination of all unnecessary openings, a controlled feed and other modifications determined necessary by ecology or the authority.

(c) It shall be unlawful to install or increase the existing use of any burner that does not meet all requirements for new sources including those requirements specified in WAC 173-400-040 and 173-400-050, except operating hours.

(d) Ecology may establish additional requirements for wigwam burners located in sensitive areas as defined by chapter 173-440 WAC. These requirements may include but shall not be limited to:

(i) A requirement to meet all provisions of WAC 173-400-040 and 173-400-050. Wigwam burners will be considered to be in compliance if they meet the requirements contained in WAC 173-400-040(1). An exception is made for a startup period not to exceed thirty minutes in any eight consecutive hours.

(ii) A requirement to apply BACT.

(iii) A requirement to reduce or eliminate emissions if ecology establishes that such emissions unreasonably interfere with the use and enjoyment of the property of others or are a cause of violation of ambient air standards.

(2) Hog fuel boilers.

(a) Hog fuel boilers shall meet all provisions of WAC 173-400-040 and 173-400-

050(1), except that emissions may exceed twenty percent opacity for up to fifteen consecutive minutes once in any eight hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary to the operation of these units. This practice is to be scheduled for the same specific times each day and ecology or the authority shall be notified of the schedule or any changes.

(b) All hog fuel boilers shall utilize RACT and shall be operated and maintained to minimize emissions.

(3) Orchard heating.

(a) Burning of rubber materials, asphaltic products, crankcase oil or petroleum wastes, plastic, or garbage is prohibited.

(b) It is unlawful to burn any material or operate any orchard-heating device that causes a visible emission exceeding twenty percent opacity, except during the first thirty minutes after such device or material is ignited.

(4) Grain elevators.

Any grain elevator which is primarily classified as a materials handling operation shall meet all the provisions of WAC 173-400-040 (2), (3), (4), and (5).

(5) Catalytic cracking units.

(a) All existing catalytic cracking units shall meet all provisions of WAC 173-400-040 (2), (3), (4), (5), (6), and (7) and:

(i) No person shall cause or permit the emission for more than three minutes, in any one hour, of an air contaminant from any catalytic cracking unit which at the emission point, or within a reasonable distance of the emission point, exceeds forty percent opacity.

(ii) No person shall cause or permit the emission of particulate material in excess of 0.46 grams per dry cubic meter at standard conditions (0.20 grains/dscf) of exhaust gas.

(b) All new catalytic cracking units shall meet all provisions of WAC 173-400-115.

(6) Other wood waste burners.

(a) Wood waste burners not specifically provided for in this section shall meet all provisions of WAC 173-400-040.

(b) Such wood waste burners shall utilize RACT and shall be operated and maintained to minimize emissions.

~~(7) Sulfuric acid plants.~~

~~No person shall cause to be discharged into the atmosphere from a sulfuric acid plant, any gases which contain acid mist, expressed as H₂SO₄, in excess of 0.15 pounds per ton of acid produced. Sulfuric acid production shall be expressed as one hundred percent H₂SO₄.~~

State effective: 3/22/91; EPA effective: 6/2/95

173-400-081 Startup and Shutdown.

In promulgating technology-based emission standards and making control technology determinations (e.g., BACT, RACT, LAER, BART) ecology and the authorities shall consider any physical constraints on the ability of a source to comply with the applicable standard during startup or shutdown. Where ecology or the authority determines that the source or source category, operated and maintained in accordance with good air pollution control practice, is not capable of achieving continuous compliance with an emission standard during startup or shutdown, ecology or the authority shall include in the standard appropriate emission limitations, operating parameters, or other criteria to regulate the performance of the source during startup or shutdown conditions. In modeling the emissions of a source for purposes of demonstrating attainment or maintenance of national ambient air quality standards, ecology and the authorities shall take into account any incremental increase in allowable emissions under startup or shutdown conditions authorized by an emission limitation or other operating parameter adopted under this rule. Any emission limitation or other parameter adopted under this rule which increases allowable emissions during startup or shutdown conditions over levels authorized in an approved state implementation plan shall not take effect until approved by EPA as a SIP amendment.

State effective: 9/20/93; EPA effective: 6/2/95

173-400-091 Voluntary Limits on Emissions.

(1) Upon request by the owner or operator of a source, ecology or the authority with jurisdiction over the source shall issue a regulatory order that limits the source's potential to emit any air contaminant or contaminants to a level agreed to by the owner or operator and ecology or the authority with jurisdiction over the source.

(2) A condition contained in an order issued under this section shall be less than the source's otherwise allowable annual emissions of a particular contaminant under all applicable requirements of the chapter 70.94 RCW and the FCAA, including any standard or other

requirement provided for in the Washington state implementation plan. The term "condition" refers to limits on production or other limitations, in addition to emission limitations.

(3) Any order issued under this section shall include monitoring, recordkeeping and reporting requirements sufficient to ensure that the source complies with any condition established under this section. Monitoring requirements shall use terms, test methods, units, averaging periods, and other statistical conventions consistent with the requirements of WAC 173-400-105.

(4) Any order issued under this section shall be subject to the notice and comment procedures under WAC 173-400-171.

(5) The terms and conditions of a regulatory order issued under this section shall be federally enforceable, upon approval of this section as an element of the Washington state implementation plan. Any proposed deviation from a condition contained in an order issued under this section shall require revision or revocation of the order.

State effective: 9/20/93; EPA effective: 6/2/95

173-400-100 Registration.

(1) Except as provided in subsection (4) of this section, the owner or operator of each source within the following source categories shall register the source with ecology or the authority.

- (a) Agricultural drying and dehydrating operations;
- (b) Asphalt plants;
- (c) Beverage can surface coating operations;
- (d) Bulk gasoline terminals;
- (e) Cattle feedlots with facilities for one thousand or more cattle;
- (f) Chemical plants;
- (g) Ferrous foundries;
- (h) Fertilizer plants
- (i) Flexible vinyl and urethane coating and printing operations;
- (j) Grain handling, seed processing, pea and lentil processing facilities;

- (k) Metallic mineral processing plants;
- (l) Mineralogical processing plants
- (m) Nonferrous foundries;
- (n) Other metallurgical processing plants;
- (o) Petroleum refineries;
- (p) Power boilers using coal, hog fuel, oil, or other solid or liquid fuel;
- (q) Pressure sensitive tape and label surface coating operations;
- (r) Rendering plants;
- (s) Scrap metal operations;
- (t) Synthetic organic chemical manufacturing industries;
- (u) Sulfuric acid plants;
- (v) Synthetic fiber production facilities;
- (w) Veneer dryers;
- (x) Wood waste incinerators including wigwam burners;
- (y) Other incinerators designed for a capacity of one hundred pounds per hour or more;
- (z) Stationary internal combustion engines rated at five hundred horse power or more;
- (aa) Sawmills, including processing for lumber, plywood, shake, shingle, pulpwood insulating board, or any combination thereof;
- (bb) Any category of stationary sources subject to a federal standard of performance (NSPS) under 40 CFR Part 60, other than Subpart AAA (Standards of Performance for New Residential Wood Heaters);
- (cc) Any source which emits a contaminant subject to a National Emission Standard for Hazardous Air Pollutants (NESHAPS);

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(dd) Any major stationary source.

(2) Registration shall be on forms to be supplied by ecology or the authority within the time specified on the form.

(3) A report of closure shall be filed with ecology or the authority within ninety days after operations producing emissions permanently cease at any source within the above categories.

(4) Permit program sources, as defined in RCW 70.94.030(17), are not required to comply with the registration requirements of this section after the Environmental Protection Agency grants interim or final approval for the state operating permit program.

State effective: 9/20/93; EPA effective: 6/2/95

173-400-105 Records, Monitoring and Reporting.

The owner or operator of a source shall upon notification by the director of ecology, maintain records on the type and quantity of emissions from the source and other information deemed necessary to determine whether the source is in compliance with applicable emission limitations and control measures.

(1) Emission inventory. The owner(s) or operator(s) of any air contaminant source shall submit an inventory of emissions from the source each year. The inventory may include stack and fugitive emissions of particulate matter, PM₁₀, sulfur dioxide, carbon monoxide, total reduced sulfur compounds (TRS), fluorides, lead, VOCs, and other contaminants, and shall be submitted (when required) no later than one hundred five days after the end of the calendar year. The owner(s) or operator(s) shall maintain records of information necessary to substantiate any reported emissions, consistent with the averaging times for the applicable standards.

(2) Monitoring. Ecology shall conduct a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants.

As a part of this program, the director of ecology or an authorized representative may require any source under the jurisdiction of ecology to conduct stack and/or ambient air monitoring and to report the results to ecology.

(3) Investigation of conditions. Upon presentation of appropriate credentials, for the purpose of investigating conditions specific to the control, recovery, or release of air contaminants into the atmosphere, personnel from ecology or an authority shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing one or two families.

(4) Source testing. To demonstrate compliance, ecology or the authority may conduct or require that a test be conducted of the source using approved EPA methods from 40 CFR 60 Appendix A which are adopted by reference, or approved procedures contained in "*Source Test Manual - Procedures for Compliance Testing*," state of Washington, department of ecology, as of July 12, 1990, on file at ecology. The operator of a source may be required to provide the necessary platform and sampling ports for ecology personnel or others to perform a test of an emissions unit. Ecology shall be allowed to obtain a sample from any emissions unit. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

(5) Continuous monitoring and recording. Owners and operators of the following categories of sources shall install, calibrate, maintain and operate equipment for continuously monitoring and recording those emissions specified.

(a) Fossil fuel-fired steam generators.

(i) Opacity, except where:

(A) Steam generator capacity is less than two hundred fifty million BTU per hour heat input; or

(B) Only gaseous fuel is burned.

(ii) Sulfur dioxide, except where steam generator capacity is less than two hundred fifty million BTU per hour heat input or if sulfur dioxide control equipment is not required.

(iii) Percent oxygen or carbon dioxide where such measurements are necessary for the conversion of sulfur dioxide continuous emission monitoring data.

(iv) General exception. These requirements do not apply to a fossil fuel-fired steam generator with an annual average capacity factor of less than thirty percent, as reported to the Federal Power Commission for calendar year 1974, or as otherwise demonstrated to ecology or the authority by the owner(s) or operator(s).

(b) Sulfuric acid plants.

Sulfur dioxide where production capacity is more than three hundred tons per day, expressed as one hundred percent acid, except for those facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

(c) Fluid bed catalytic cracking units catalyst regenerators at petroleum refineries.

Opacity where fresh feed capacity is more than twenty thousand barrels per day.

(d) Wood residue fuel-fired steam generators.

(i) Opacity, except where steam generator capacity is less than one hundred million BTU per hour heat input.

(ii) Continuous monitoring equipment. The requirements of (e) of this subsection do not apply to wood residue fuel-fired steam generators, but continuous monitoring equipment required by (d) of this subsection shall be subject to approval by ecology.

(e) Owners and operators of those sources required to install continuous monitoring equipment under this chapter shall demonstrate to ecology or the authority, compliance with the equipment and performance specifications and observe the reporting requirements contained in 40 CFR Part 51, Appendix P, Sections 3, 4 and 5, promulgated October 6, 1975, and amended November 7, 1986, which is adopted by reference.

(f) Special considerations. If for reason of physical plant limitations or extreme economic situations, ecology determines that continuous monitoring is not a reasonable requirement, alternative monitoring and reporting procedures will be established on an individual basis. These will generally take the form of stack tests conducted at a frequency sufficient to establish the emission levels over time and to monitor deviations in these levels.

(g) Exemptions. This subsection (5) does not apply to any source which is:

(i) Subject to a new source performance standard. These sources will be governed by WAC 173-400-115.

(ii) Not subject to an applicable emission standard.

(h) Monitoring system malfunctions. A source may be temporarily exempted from the monitoring and reporting requirements of this chapter during periods of monitoring system malfunctions provided that the source owner(s) or operator(s) shows to the satisfaction of ecology or the authority that the malfunction was unavoidable and is being repaired as expeditiously as practicable.

(6) Change in raw materials or fuels for sources not subject to requirements of the operating permit program. Any change or series of changes in raw material or fuel which will result in a cumulative increase in emissions of sulfur dioxide of forty tons per year or more over that stated in the initial inventory required by subsection (1) of this section shall require the submittal of sufficient information to ecology or the authority to determine the effect of the increase upon

ambient concentrations of sulfur dioxide. Ecology or the authority may issue regulatory orders requiring controls to reduce the effect of such increases. Cumulative changes in raw material or fuel of less than 0.5 percent increase in average annual sulfur content over the initial inventory shall not require such notice.

State effective: 9/20/93; EPA effective: 6/2/95

173-400-107 Excess Emissions.

- (1) The owner or operator of a source shall have the burden of proving to ecology or the authority or the decision-making authority in an enforcement action that excess emissions were unavoidable. This demonstration shall be a condition to obtaining relief under subsections (4), (5) and (6) of this section.
- (2) Excess emissions determined to be unavoidable under the procedures and criteria in this section shall be excused and not subject to penalty.
- (3) Excess emissions which represent a potential threat to human health or safety or which the owner or operator of the source believes to be unavoidable shall be reported to ecology or the authority as soon as possible. Other excess emissions shall be reported within thirty days after the end of the month during which the event occurred or as part of the routine emission monitoring reports. Upon request by ecology or the authority, the owner(s) or operator(s) of the source(s) shall submit a full written report including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence.
- (4) Excess emissions due to startup or shutdown conditions shall be considered unavoidable provided the source reports as required under subsection (3) of this section and adequately demonstrates that the excess emissions could not have been prevented through careful planning and design and if a bypass of control equipment occurs, that such bypass is necessary to prevent loss of life, personal injury, or severe property damage.
- (5) Maintenance. Excess emissions due to scheduled maintenance shall be considered unavoidable if the source reports as required under subsection (3) of this section and adequately demonstrates that the excess emissions could not have been avoided through reasonable design, better scheduling for maintenance or through better operation and maintenance practices.
- (6) Excess emissions due to upsets shall be considered unavoidable provided the source reports as required under subsection (3) of this section and 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; and

(c) The operator took immediate and appropriate corrective action in a manner consistent with good air pollution control practice for minimizing emissions during the event, taking into account the total emissions impact of the corrective action, including slowing or shutting down the emission unit as necessary to minimize emissions, when the operator knew or should have known that an emission standard or permit condition was being exceeded.

State effective: 9/20/93; EPA effective: 6/2/95

173-400-110 New Source Review (NSR).

(1) Applicability:

(a) A notice of construction application must be filed by the owner or operator and an order of approval issued by ecology or an authority prior to the establishment of any new source or emission unit or modification which is listed in WAC 173-400-100 or required to obtain a permit under RCW 70.94.161.

(b) Ecology or the authority may require that a notice of construction application be filed by the owner or operator of a proposed new source or modification and an order of approval issued by ecology or an authority prior to the establishment of any new source or emission unit or modification, other than a single family or a duplex dwelling.

(c) New source review of a modification shall be limited to the emission unit or units proposed to be added to an existing source or modified and the air contaminants whose emissions would increase as a result of the modification.

(2) Completeness Determination: Within thirty days of receipt of a notice of construction application, ecology or the authority shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary, based upon review of information already supplied, to complete the application. For a project subject to PSD review under WAC 173-400-141 a completeness determination includes a determination that the application provides all information required to conduct PSD review.

(3) Final Determination:

(a) Within sixty days of receipt of a complete application, ecology or the authority shall

either issue a final decision on the application or, for those projects subject to public notice, initiate notice and comment procedures under WAC 173-400-171 on a proposed decision, followed as promptly as possible by a final decision. A person seeking approval to construct or modify a source that requires an operating permit may elect to integrate review of the operating permit application or amendment required under RCW 70.94.161 and the notice of construction application required by this section. A notice of construction designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines.

(b) 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 ecology or the authority.

(c) If the new source is a major stationary source or the change is a major modification, ecology or the authority shall submit any control technology determination included in a final order of approval to the RACT/BACT/LAER clearinghouse maintained by EPA.

(4) Appeals: 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. Ecology or the authority 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 and, where applicable, to the EPA Environmental Appeals Board.

(5) Portable Sources: For portable sources which located temporarily at particular sites, the owner(s) or operator(s) shall be allowed to operate at the temporary location without filing a notice of construction application, providing that the owner(s) or operator(s) notifies ecology or the authority of intent to operate at the new location at least thirty days prior to starting the operation, and supplies sufficient information to enable ecology or the authority to determine that the operation will comply with the emission standards for a new source, and will not cause a violation of applicable ambient air quality standards and, if in a nonattainment area, will not interfere with scheduled attainment of ambient standards. The permission to operate shall be for a limited period of time (one year or less) and ecology or the authority may set specific conditions for operation during that period. A temporary source shall be required to comply with all applicable emission standards.

(6) Approval to construct or modify a stationary source shall become invalid if construction is not commenced within eighteen months after receipt of such approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. Ecology or the authority may extend the eighteen-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase

must commence construction within eighteen months of the projected and approved commencement date.

State effective: 9/20/93; EPA effective: 6/2/95

WAC 173-400-112 Requirements for New Sources in Nonattainment Areas.

Ecology or an authority reviewing an application to establish a new source or modification in a nonattainment area, shall issue an order of approval, which order shall contain such conditions as are reasonably necessary to assure the maintenance of compliance with this chapter, if they determine that the proposed project satisfies each of the following requirements:

- (1) The proposed new source or modification will comply with all applicable new source performance standards, national emission standards for hazardous air pollutants, emission standards adopted under chapter 70.94 RCW and, for sources regulated by an authority, the applicable emission standards of that authority.
- (2) The proposed new source will employ BACT for all air contaminants, except that if the new source is a major stationary source or the proposed modification is a major modification it will achieve LAER for the contaminants for which the area has been designated nonattainment and for which the proposed new source or modification is major.
- (3) The proposed new source will not cause any ambient air quality standard to be exceeded, will not violate the requirements for reasonable further progress established by the state implementation plan and will comply with WAC 173-400-113(3) for all contaminants for which the area has not been designated nonattainment.
- (4) If the proposed new source is a major stationary source or the proposed modification is a major modification, ecology or the authority has determined, based on review of an analysis performed by the source of alternative sites, sizes, production processes, and environmental control techniques, that the benefits of the project significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.
- (5) If the proposed new source or the proposed modification is major for the contaminant for which the area is designated nonattainment, allowable emissions from the proposed new source or modification of that contaminant are offset by reductions in actual emissions from existing sources in the nonattainment area. Emission offsets must be sufficient to ensure that total allowable emissions from existing major stationary sources in the nonattainment area, new or modified sources which are not major stationary sources, and the proposed new or modified source will be less than total actual emissions from existing sources (prior to submittal of the application) so as to represent (when considered together with the nonattainment provisions of section 172 of the FCAA) reasonable further progress. All offsetting emission reductions must

satisfy the following requirements:

(a) The proposed new level of allowable emissions of the source or emission unit(s) providing the reduction must be less than the current level of actual emissions of that source or emissions unit(s). No emission reduction can be credited for actual emissions which exceed the current allowable emissions of the source or emissions unit(s) providing the reduction. Emission reductions imposed by local, state, or federal regulations, regulatory orders, or permits cannot be credited.

(b) The emission reductions must provide for a net air quality benefit. For marginal ozone nonattainment areas, the total emissions of volatile organic compounds or total emissions of nitrogen oxides are reduced by a ratio of 1.1 to 1 for the area in which the new source is located. For any other nonattainment area, the emissions offsets must provide a positive net air quality benefit in the nonattainment area. Determinations on whether emissions offsets provide a positive net air quality benefit will be made in accordance with the guidelines contained in 40 CFR 51 Appendix S.

(c) If the offsets are provided by another source, the reductions in emissions from that source must be federally enforceable by the time the new or modified source commences operation. The new source may not commence operation before the date such reductions are actually achieved. An emission reduction credit issued under WAC 173-400-131 may be used to satisfy some or all of the offset requirements of this subsection.

(6) If the proposed new source is a major stationary source or the proposed modification is a major modification, the owner or operator has demonstrated that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in Washington are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under the Federal Clean Air Act, including all rules contained in an EPA-approved state implementation plan.

(7) If the proposed new source is a major stationary source or the proposed modification is a major modification for the purposes of the PSD program described in WAC 173-400-141, it meets the requirements of that program for all contaminants for which the area has not been designated nonattainment.

~~(8) If the proposed new source or modification will emit any toxic air pollutants regulated under chapter 173-460 WAC, the source meets all applicable requirements of that chapter.~~

(9) If the proposed new source is a major stationary source or the proposed modification is a major modification, ecology or the authority has complied with the visibility protection review requirements of 40 CFR 52.28(c) through (e) except for (c)(4)(i), (g), and (h), as in effect on March 3, 1993, and determined that the project meets the criteria set forth in 40 CFR 52.28(g).

For purposes of this subsection, definitions referenced in 40 CFR 52.28(b) are incorporated by reference, except that the term "visibility protection area" means any Class I area, and terms defined in WAC 173-400-030 shall have the meanings defined in that section. References in 40 CFR 52.28 to "the Administrator" shall mean the agency (either ecology or the authority) processing the notice of construction application.

State effective: 9/20/93; EPA effective: 6/2/95

173-400-113 Requirements for New Sources in Attainment or Unclassifiable Areas.

Ecology or an authority reviewing an application to establish a new source or modification in an area that is in attainment or unclassifiable for any air contaminant the new source would emit and that is in attainment or unclassifiable for ozone if the proposed new or modified source would emit VOCs or NO_x, shall issue an order of approval, which order shall contain such conditions as are reasonably necessary to assure the maintenance of compliance with this chapter, if they determine that the proposed project satisfies all of the following requirements:

- (1) The proposed new source or modification will comply with all applicable new source performance standards, national emission standards for hazardous air pollutants, emission standards adopted under chapter 70.94 RCW and, for sources regulated by an authority, the applicable emission standards of that authority.
- (2) The proposed new source or modification will employ BACT for all pollutants not previously emitted or whose emissions would increase as a result of the new source or modification.
- (3) Allowable emissions from the proposed new source or modification will not delay the attainment date for an area not in attainment nor cause or contribute to a violation of any ambient air quality standard. This requirement will be considered to be met if the projected impact of the allowable emissions from the proposed new source or the projected impact of the increase in allowable emissions from the proposed modification at any location within a nonattainment area does not exceed the following levels for the pollutant(s) for which the area has been designated nonattainment:

Pollutant	Annual Average	24-Hour Average	8-Hour Average	3-Hour Average	1-Hour Average
CO-	-	0.5 mg/m ³		2 mg/m ³	
SO ₂	1.0 ug/m ³	5 ug/m ³	-	25 ug/m ³	30 ug/m ³
PM ₁₀	1.0 ug/m ³	5 ug/m ³	-	-	-
NO ₂	1.0 ug/m ³	-	-	-	-

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An offsetting emission reduction may be used to satisfy some or all of the requirements of this subsection.

(4) If the proposed new source is a major stationary source or the proposed modification is a major modification for purposes of the PSD program described in WAC 173-400-141, it meets all applicable requirements of that chapter.

~~(5) If the proposed new source or the proposed modification will emit any toxic air pollutants regulated under chapter 173-460 WAC, the source meets all applicable requirements of that program.~~

(6) If, within the meaning of the PSD program described in WAC 173-400-141, the proposed new source is a major stationary source or the proposed modification is a major modification, ecology or the authority has complied with the visibility protection review requirements of 40 CFR 52.27(d) through (f), as in effect on March 3, 1993, and has determined that the source would not cause an adverse impact upon visibility. References in 40 CFR 52.27 to "the Administrator" shall mean the agency (either ecology or the authority) processing the notice of construction application.

State effective: 9/20/93; EPA effective: 6/2/95

173-400-151 Retrofit Requirements for Visibility Protection.

(1) Determination of best available retrofit technology (BART). Ecology shall identify and analyze each source which may reasonably be anticipated to cause or contribute to impairment of visibility in any mandatory Class I area in Washington and any adjacent state and to determine BART for the contaminant of concern and those additional air pollution control technologies that are to be required to reduce impairment from the source.

(2) Initially defined BART. The owner(s) or operator(s) of any source(s) to which significant visibility impairment of a mandatory Class I area is reasonably attributable shall apply BART for each contaminant contributing to visibility impairment that is emitted at more than 250 tons per year. Each source for which BART is required must install and operate BART as expeditiously as possible, but in no case later than five years after the conditions are included in a regulatory order.

(3) Future definitions of BART. The owner(s) or operator(s) of any source(s) to which significant visibility impairment of a mandatory Class I area is reasonably attributable shall apply BART as new technology becomes available for a contaminant if:

(a) The source emits more than 250 tons per year of the contaminant; and,

(b) The controls representing BART have not previously been required in this section.

(4) Appeal. Any source owner or operator required by this section to install, operate, and maintain BART, may apply to the EPA administrator for an exception from that requirement pursuant to 40 CFR 51.303.

State effective: 3/22/91; EPA effective: 6/2/95

173-400-161 Compliance Schedules.

(1) Issuance. Whenever a source is found to be in violation of an emission standard or other provision of this chapter, ecology or the authority may issue a regulatory order requiring that the source be brought into compliance within a specified time. The order shall contain a schedule for installation, with intermediate benchmark dates and a final completion date, and shall constitute a compliance schedule. Requirements for public involvement (WAC 173-400-171) must be met.

(2) Federal action. A source shall be considered to be in compliance with this chapter if all the provisions of its individual compliance schedule included with a regulatory order are being met. Such compliance does not preclude federal enforcement action by the EPA until and unless the schedule is submitted and adopted as an amendment to the state implementation plan.

(3) Penalties for delayed compliance. Sources on a compliance schedule but not meeting emissions standards may be subject to penalties as provided in the Federal Clean Air Act.

State effective: 3/22/91; EPA effective: 6/2/95

173-400-171 Public Involvement.

(1) Applicability.

Ecology or the authority shall provide public notice prior to the approval or denial of any of the following types of applications or other actions:

(a) Notice of construction application for any new or modified source or emissions unit, if a significant net increase in emissions of any pollutant regulated by state or federal law would result; or

(b) Any application or other proposed action for which a public hearing is required by PSD rules; or

- (c) Any order to determine RACT; or
- (d) An order to establish a compliance schedule or a variance; or
- (e) The establishment or disestablishment of a nonattainment area, or the changing of the boundaries thereof; or
- (f) An order to demonstrate the creditable height of a stack which exceeds the GEP formula height and sixty-five meters, by means of a fluid model or a field study, for the purposes of establishing an emission limitation; or
- (g) An order to authorize a bubble; or
- (h) Notice of construction application or regulatory order used to establish a creditable emission reduction;
- (i) An order issued under WAC 173-400-090 which establishes limitations on a source's potential to emit; or
- (j) Any application or other proposed action made pursuant to this chapter in which there is a substantial public interest according to the discretion of ecology or the authority.

(2) Public notice. Public notice shall be made only after all information required by ecology or the authority has been submitted and after applicable preliminary determinations, if any, have been made. The cost of providing public notice shall be borne by the applicant or other initiator of the action. Public notice shall include:

- (a) Availability for public inspection in at least one location near the proposed project, of the nonproprietary information submitted by the applicant and of any applicable preliminary determinations, including analyses of the effect(s) on air quality.
- (b) Publication in a newspaper of general circulation in the area of the proposed project of notice:
 - (i) Giving a brief description of the proposal;
 - (ii) Advising of the location of the documents made available for public inspection;
 - (iii) Advising of a thirty-day period for submitting written comment to ecology or the authority;

(iv) Advising that a public hearing may be held if ecology or the authority determines within a thirty-day period that significant public interest exists.

(c) A copy of the notice will be sent to the EPA regional administrator.

Public participation procedures for notice of construction applications that are processed in coordination with an application to issue or modify an operating permit shall be conducted as provided in the state operating permit rule.

(3) Public comment. No final decision on any application or action of any of the types described in subsection (1) of this section, shall be made until the public comment period has ended and any comments received have been considered. Unless a public hearing is held, the public comment period shall be the thirty-day period for written comment published as provided above. If a public hearing is held the public comment period shall extend through the hearing date and thereafter for such period, if any, as the notice of public hearing may specify.

(4) Public hearings. The applicant, any interested governmental entity, any group or any person may request a public hearing within the thirty-day period published as above. Any such request shall indicate the interest of the entity filing it and why a hearing is warranted. Ecology or the authority may, in its discretion, hold a public hearing if it determines significant public interest exists. Any such hearing shall be held upon such notice and at a time(s) and place(s) as ecology or the authority deems reasonable.

(5) Other requirements of law. Whenever procedures permitted or mandated by law will accomplish the objectives of public notice and opportunity for comment, such procedures may be used in lieu of the provisions of this section.

(6) Public information. Copies of notices of construction, orders, and modifications thereof which are issued hereunder shall be available for public inspection on request at ecology or the authority.

State effective: 9/20/93; EPA effective: 6/2/95

173-400-190 Requirements for Nonattainment Areas.

The development of specific requirements for nonattainment areas shall include consultation with local government in the area and shall include public involvement per WAC 173-400-171.

State effective: 3/22/91; EPA effective: 6/2/95

173-400-200 Creditable Stack Height & Dispersion Techniques.

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(1) Applicability. These provisions shall apply to all sources except:

- (a) Stacks for which construction had commenced on or before December 31, 1970, except where pollutants are being emitted from such stacks used by sources which were constructed, or reconstructed, or for which major modifications were carried out after December 31, 1970;
- (b) Coal-fired steam electric generating units subject to the provisions of Section 118 of the Federal Clean Air Act, which commenced operation before July 1, 1957, and for whose stacks construction commenced before February 8, 1974;
- (c) Flares;
- (d) Open burning for agricultural or silvicultural purposes as covered under the smoke management plan;
- (e) Residential wood combustion and open burning for which episodic restrictions apply.

These provisions shall not be construed to limit the actual stack height.

(2) Prohibitions. No source may use dispersion techniques or excess stack height to meet ambient air quality standards or PSD increment limitations.

- (a) Excess stack height. Excess stack height is that portion of a stack which exceeds the greater of:
 - (i) Sixty-five meters, measured from the ground level elevation at the base of the stack; or
 - (ii) $H_g = H + 1.5L$

where: H_g = "good engineering practice" (GEP) stack height, measured from the ground level elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground level elevation at the base of the stack,

L = lesser dimension, height or projected width, of nearby structure(s), subject to the proviso below.

"Nearby," as used in this subsection for purposes of applying the GEP formula means that

distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 kilometer (1/2 mile).

(b) Dispersion techniques. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. This does not include:

(i) The reheating of a gas stream, following the use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

(ii) The merging of gas streams where:

(A) The source was originally designed and constructed with such merged gas streams, as demonstrated by the source owner(s) or operator(s).

(B) Such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion shall apply only to the emission limitation for the pollutant affected by such change in operation.

(C) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons, and not primarily motivated by an intent to gain emissions credit for greater dispersion.

(3) Exception. EPA, ecology, or an authority may require the use of a field study or fluid model to verify the creditable stack height for the source. This also applies to a source seeking credit after the effective date of this rule for an increase in existing stack height up to that established by the GEP formula. A fluid model or field study shall be performed according to the procedures described in the EPA Guideline for Determination of Good Engineering Practice Height (Technical Support Document of the Stack Height Regulations). The creditable height demonstrated by a fluid model or field study shall ensure that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

(a) "Nearby," as used in this subsection for conducting a field study or fluid model, means not greater than 0.8 km, except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten times the maximum

height of the feature, not to exceed two miles if such feature achieves a height 0.8 km from the stack that is at least forty percent of the GEP stack height or twenty-six meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(b) "Excessive concentration" is defined for the purpose of determining creditable stack height under this subsection and means a maximum ground-level concentration owing to a significant downwash effect which contributes to excursion over an ambient air quality standard. For sources subject to PSD review (WAC 173-400-141 and 40 CFR 52.21) an excessive concentration alternatively means a maximum ground-level concentration owing to a significant downwash effect which contributes to excursion over a PSD increment. The emission rate used in this demonstration shall be the emission rate specified in the state implementation plan, or in the absence of such, the actual emission rate of the source. "Significant downwash effect" means a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

State effective: 3/22/91; EPA effective: 6/2/95

173-400-205 Adjustment for Atmospheric Conditions.

Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant is prohibited, except as directed according to air pollution episode regulations.

State effective: 3/22/91; EPA effective: 6/2/95

173-400-210 Emission Requirements of Prior Jurisdictions.

Any emissions unit that was under the jurisdiction of an authority and now is under the jurisdiction of ecology, shall meet all emission requirements that were applicable prior to transfer of jurisdiction if those standards are more stringent than the standards of this chapter or the specific chapter relating to that source.

State effective: 3/22/91; EPA effective: 6/2/95

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