



PUGET SOUND CLEAN AIR AGENCY

**1904 3rd Avenue, Suite 105
Seattle, Washington 98101-3317
(206) 343-8800**

REGULATION I

Copies of Regulations I, II, and III are available by writing, calling, or visiting the Agency. Our regulations are also available on the Agency's web site at <www.pscleanair.org>.

**Regulation I of the
PUGET SOUND CLEAN AIR AGENCY**

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Seattle, Washington 98101-3317

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Regulation I of the PUGET SOUND CLEAN AIR AGENCY

As originally adopted by Resolution No. 12 on March 13, 1968 by the Board of Directors of the Agency and as amended by subsequent resolutions as follows:

Resolution No.	Date Adopted	Sections Amended
25	07/09/69	Revised - 3.11, 3.12, and 7.01 Adopted - 3.29
115	02/11/70	Extended - Regulation I to Kitsap County
126	07/08/70	Revised - 1.07, 9.03, 9.04, 9.07, and 9.09 Adopted - 11.01, 11.03, and 11.05
135	11/10/71	Revised - 1.01, 1.07, 3.09, 3.11, 3.12, 3.29, 5.03, 5.05, 6.03, 6.07, 7.01, 9.02, 9.09, 11.01, and 11.03 Adopted - 11.06, 11.07, 11.08, 11.09, and 12.01
141	04/12/72	Revised - 1.07 and 9.02
142	05/10/72	Revised - 1.07 and 11.03
149	07/12/72	Adopted - 9.17
172	12/13/72	Adopted - 7.02
178	03/14/73	Adopted - 9.19
186	04/11/73	Revised - 9.03
187	04/11/73	Revised - 9.16
194	06/13/73	Revised - 1.07 and 9.02
214	10/10/73	Revised - 1.01, 3.07, 3.25, Exhibit A of Article 5, 6.07, and 9.09 Adopted - 6.04 Deleted - 9.17
218	12/12/73	Revised - 6.04
230	02/21/74	Revised - 9.07
251	06/20/74	Adopted - 9.02A
264	08/15/74	Revised - 7.01
285	11/21/74	Revised - 6.03, 6.04, and 6.07 Adopted - 6.06
312	07/17/75	Adopted - 18.01, 18.02, 18.03, 18.04, 18.05, 18.06, 18.07, 18.08, and 18.09
332	09/18/75	Revised - 18.01 and 18.05
361	03/18/76	Revised - 1.07 Adopted - 8.01, 8.02, 8.03, 8.04, 8.05, 8.06, 8.07, 8.08, 8.09, 8.10, and 8.11 Deleted - 9.02 and 9.02A
383	11/18/76	Revised - 18.02 and 18.03
417	12/08/77	Deleted - 18.01, 18.02, 18.03, 18.04, 18.05, 18.06, 18.07, 18.08, and 18.09
461	03/13/80	Revised - 1.07, Exhibit A of Article 5, 6.03, 6.04, and 6.06
465	05/08/80	Adopted - 3.24
471	06/12/80	Adopted - 6.08
472	06/12/80	Revised - 3.24
477	08/14/80	Revised - 11.01, 11.03, 11.05, 11.06, 11.07, and 11.09

Resolution		Sections Amended	
No.	Date Adopted		
530	12/09/82	Revised	- 5.03 and 5.05
		Adopted	- 5.02, 5.07, and 5.09
531	12/09/82	Revised	- 3.05, 6.03, and 7.02
		Adopted	- 3.06, 6.12, and 9.20
536	06/09/83	Revised	- 9.04, 9.11, and 9.15
547	10/13/83	Revised	- 1.07, 6.07, and 6.08
556	05/10/84	Revised	- 1.07, 3.25, and 3.29
557	05/10/84	Adopted	- 9.17
		Deleted	- 9.16
567	12/13/84	Revised	- Exhibit A of Article 5
573	01/10/85	Revised	- 5.07
579	06/13/85	Adopted	- 9.08
593	12/12/85	Adopted	- Article 10
597	02/13/86	Revised	- 1.07, 3.05, 3.06, Exhibit A of Article 5, 6.03, 6.04, 6.05, 6.07, 6.09, 7.02, 8.08, 9.06, 9.07, 9.08, and 9.09
		Deleted	- 9.19
616	11/12/87	Revised	- 1.07, 3.05, 3.09, 3.11, 3.29, 6.07, 6.12, 10.01, 10.02, 10.03, 10.04, and 10.05
		Adopted	- 5.08 and 6.10
		Deleted	- 3.12, 3.13, and 3.15
617	01/14/88	Revised	- 10.02, 10.03, 10.04, and 10.05
621	06/09/88	Revised	- 1.07, 3.07, 5.05, 6.04, 6.08, 8.10, 9.03, 9.05, 9.06, 9.07, 9.09, 9.13, 9.15, 9.20, and 12.01
		Adopted	- 9.10, 9.25, 11.04, 12.02, 12.03, 12.04, and 12.05
622	06/09/88	Adopted	- Delineation of Nonattainment Areas - 8.02
634	11/10/88	Revised	- 1.07
		Adopted	- Article 13
636	12/08/88	Revised	- 1.07 and 8.02
639	01/12/89	Revised	- 1.07, 7.02, 8.01, 8.02, 8.03, 8.04, 8.05, and Delineation of No-Burn Zones - 8.02(b) & (c)
		Deleted	- 8.06, 8.07, 8.08, 8.09, 8.10, and 8.11
640	02/09/89	Revised	- 13.02 and 13.04
643	05/11/89	Revised	- 6.04, 6.07, 9.03, and 9.09
644	08/10/89	Revised	- 1.07, 9.12, 9.15, 12.01, 12.02, 12.03, 12.04, and 12.05
649A1	11/16/89	Adopted	- 5.10
653	10/12/89	Revised	- 5.05 and 5.07
655	11/16/89	Revised	- 8.02 and Delineation of No-Burn Zones - 8.02(b)
660	03/08/90	Revised	- 8.01, 8.02, and 8.05
666	09/13/90	Deleted	- Article 10 [effective 10/15/90]
667	07/12/90	Revised	- 8.02(e)
		Deleted	- 8.02(f)
668	07/12/90	Deleted	- 5.10

Resolution		Sections Amended	
No.	Date Adopted		
670	08/09/90	Revised	- 5.03, 5.05 and 5.07 [effective 10/01/90]
671	10/11/90	Revised Adopted	- 13.02 and 13.05 - 13.03
676	10/11/90	Revised	- 6.08 [effective 11/11/90]
700	06/13/91	Revised Adopted	- 1.07 [effective 07/15/91] - 9.16 [effective 07/15/91]
702	08/08/91	Revised Deleted Re#d/ Revised	- 3.01, 3.05, and 3.09 - 3.03, 3.06, 3.21, and 3.24 - 3.07 to 3.19, 3.11 to 3.17, 3.17 to 3.07, 3.19 to 3.03, 3.23 to 3.21, 3.25 to 3.13, 3.27 to 3.15, 3.29 to 3.11, Article 7 to Article 4, 7.01 to 4.01, 7.02 to 4.02
708	09/26/91	Revised	- 13.01, 13.02, 13.04, and 13.05
710	11/14/91	Revised Adopted	- 6.04 [effective 12/01/91] - 5.10 [effective 12/01/91]
713	12/12/91	Revised	- 5.07
716	01/09/92	Revised Deleted	- 1.07 [effective 02/09/92] - 9.25, 12.05, and 13.02 [effective 02/09/92]
724	04/09/92	Revised Deleted	- 8.01, 8.02, 8.03, and 8.04 [effective 06/01/92] - 8.05 [effective 06/01/92]
734	09/10/92	Revised	- 3.11 and 6.04 [effective 11/01/92]
738	11/19/92	Revised Deleted Adopted	- 1.07, 6.03, 6.04, 6.07, 6.08, 6.09 [effective 01/01/93] - 6.05, 6.11, and 6.12 [effective 01/01/93] - 5.11 [effective 01/01/93]
746	01/14/93	Re#d/ Revised Adopted	- 4.02 (renumbered as 4.03) [effective 03/04/93] - 4.02 [effective 03/04/93]
751	05/13/93	Revised Deleted	- 8.02 and 8.03 [effective 06/17/93] - Addenda [effective 06/17/93]
756	07/08/93	Revised Deleted	- 3.11, 5.07, 5.11, 6.04, 6.07, 6.10 [effective 08/14/93] - 5.10 [effective 08/14/93]
760	08/12/93	Revised Adopted	- 5.03 [effective 09/17/93] - 6.11 [effective 09/17/93]
764	10/14/93	Revised	- 5.11 [effective 11/15/93]
765	10/28/93	Revised	- 6.04 [effective 11/29/93]
766	10/28/93	Adopted	- 7.01, 7.03, 7.05, 7.07 [effective 11/29/93]
769	12/09/93	Revised Deleted Adopted	- 9.05 [effective 01/13/94] - 9.06 [effective 01/13/94] - 3.23 [effective 01/13/94]
777	02/10/94	Revised Deleted Adopted	- 3.01, 3.05, 5.03, and 9.09 [effective 03/17/94] - 3.03, 3.07, 5.09, and 9.17 [effective 03/17/94] - 3.07 [effective 03/17/94]
783	04/14/94	Revised	- 8.03 and 8.04 [effective 05/19/94]

Resolution		Sections Amended	
No.	Date Adopted		
784	04/14/94	Revised	- 1.07, 6.06, 6.07, 6.09, 9.07, 9.08, Article 11 (title) <i>[effective 05/19/94]</i>
		Deleted	- 11.01, 11.03, 11.04, 11.05, 11.06, 11.07, 11.08, 11.09 <i>[effective 05/19/94]</i>
		Adopted	- 11.01 and 11.02 <i>[effective 05/19/94]</i>
798	09/08/94	Revised	- 3.11, 5.07, 6.11, 7.07, and 9.03 <i>[effective 10/14/94]</i>
808	12/08/94	Adopted	- 13.07 <i>[effective 01/09/95]</i>
813	02/09/95	Revised	- 3.07 and 8.03 <i>[effective 03/19/95]</i>
		Deleted	- 9.04 <i>[effective 03/19/95]</i>
821	09/14/95	Revised	- 3.11, 5.07, 5.11, 6.11, and 7.07 <i>[effective 10/19/95]</i>
825	02/08/96	Revised	- 8.02 <i>[effective 03/14/96]</i>
		Deleted	- 8.01 <i>[effective 03/14/96]</i>
		Adopted	- 8.05, 8.07, and 8.08 <i>[effective 03/14/96]</i>
832	06/13/96	Adopted	- 3.03 <i>[effective 07/18/96]</i>
838	09/12/96	Revised	- 5.02, 5.03, 5.05, and 6.03 <i>[effective 11/01/96]</i>
839	09/12/96	Revised	- 3.11, 3.23, 5.07, 6.04, 6.11, and 7.07 <i>[effective 11/01/96]</i>
		Deleted	- 5.08 and 5.11 <i>[effective 11/01/96]</i>
		Adopted	- 7.09 <i>[effective 11/01/96]</i>
842	12/12/96	Revised	- 5.03 and 6.04 <i>[effective 01/16/97]</i>
849	03/13/97	Revised	- 8.07 <i>[effective 04/17/97]</i>
856	09/11/97	Revised	- 3.03, 3.11, 5.05, 5.07, 6.04, 6.10, 6.11, 7.07, 7.09 <i>[effective 11/01/97]</i>
		Adopted	- 3.04 <i>[effective 11/01/97]</i>
865	04/09/98	Revised	- 9.03, 9.09, 12.01, and 12.03 <i>[effective 06/01/98]</i>
		Deleted	- 12.02 and 12.04 <i>[effective 06/01/98]</i>
		Adopted	- 9.04 <i>[effective 06/01/98]</i>
870	09/10/98	Revised	- 3.11, 5.03, 5.05, 6.11, and 7.09 <i>[effective 11/01/98]</i>
		Adopted	- 3.02 <i>[effective 11/01/98]</i>
871	09/10/98	Revised	- 5.07 and 7.07 <i>[effective 11/01/98]</i>
872	10/08/98	Revised	- 1.03, 1.07, and 3.17 <i>[effective 11/14/98]</i>
		Adopted	- 3.06 and 13.02 <i>[effective 11/14/98]</i>
873	10/08/98	Revised	- 8.02, 8.03, and 8.04 <i>[effective 11/14/98]</i>
		Adopted	- 8.01 and 8.06 <i>[effective 11/14/98]</i>
880	03/11/99	Revised	- 1.07, 6.03, 6.04, 6.06, and 6.07 <i>[effective 04/17/99]</i>
881	03/11/99	Revised	- 8.04 and 9.03 <i>[effective 04/17/99]</i>
882	03/11/99	Revised	- 3.03, 3.04, 9.11, and 9.15 <i>[effective 04/17/99]</i>
		Deleted	- 9.12 <i>[effective 04/17/99]</i>
886	07/08/99	Revised	- 5.03, 6.03, and 9.16 <i>[effective 08/13/99]</i>
894	09/09/99	Revised	- 5.07 and 7.07 <i>[effective 11/01/99]</i>
895	09/09/99	Revised	- 1.01, 1.03, 1.05, 1.07, 3.01, 3.03, 3.11, 6.11, 7.03, 8.07, 8.08, and 13.01 <i>[effective 11/01/99]</i>
905	12/09/99	Revised	- 4.01, 4.02, and 4.03 <i>[effective 01/10/00]</i>
925	07/13/00	Revised	- 3.11, 5.07, 6.11, and 7.07 <i>[effective 08/18/00]</i>
933	11/09/00	Revised	- 8.04 and 8.05 <i>[effective 01/01/01]</i>
		Deleted	- 8.01, 8.02, 8.03, and 8.06 <i>[effective 01/01/01]</i>
		Adopted	- 8.09, 8.10, 8.11, and 8.12 <i>[effective 01/01/01]</i>

Resolution		Sections Amended	
No.	Date Adopted		
943	05/10/01	Adopted	- 2.01 2.02, 2.03, 2.04, 2.05, 2.06, 2.07, 2.08, 2.09, 2.10, 2.11, 2.12, 2.13, and 2.14 [effective 06/16/01]
944	07/12/01	Revised	- 6.03, 6.04, 6.09, 6.10, and 9.16 [effective 09/01/01]
946	06/14/01	Revised	- 3.02, 5.07, and 7.07 [effective 07/20/01]
954	09/13/01	Revised Adopted	- 3.11 and 6.11 [effective 10/20/01] - 3.25 [effective 10/20/01]
957	10/11/01	Revised Deleted	- 5.07 and 7.07 [effective 11/16/01] - 4.02 [effective 11/16/01]
968	05/23/02	Revised	- 5.07 [effective 09/01/02]
969	05/23/02	Revised	- 6.04 [effective 09/01/02]
970	05/23/02	Revised	- 7.07 [effective 09/01/02]
978	09/26/02	Revised	- 3.11, 3.25, and 6.11 [effective 11/03/02]
981	10/24/02	Revised	- 8.12 [effective 11/30/02]
976	12/19/02	Adopted	- 8.06 [effective 01/23/03]
992	05/22/03	Revised	- 3.03 and 6.04 [effective 07/01/03]
994	05/22/03	Revised	- 5.05 and 5.07 [effective 07/01/03]
995	05/22/03	Revised	- 7.07 [effective 07/01/03]
1009	09/25/03	Revised	- 3.11 and 3.25 [effective 11/01/03]
1024	03/25/04	Revised Deleted Adopted	- 1.07, 3.04, 6.03, 6.09, 9.03, 9.04, 9.08, and 12.03 [effective 05/01/04] - 6.06, 6.07, and 6.08 [effective 05/01/04] - 6.01 [effective 05/01/04]
1030	06/24/04	Revised Deleted	- 5.03, 5.05, and 5.07 [effective 08/01/04] - 5.02 [effective 08/01/04]
1031	07/22/04	Revised	- 7.03 and 7.07 [effective 09/01/04]
1036	09/23/04	Revised Deleted Adopted Re#d	- 3.11, 3.25, and 12.03 [effective 11/01/04] - 11.01, 11.02, 13.02, 13.03, 13.04, and 13.05 [effective 11/01/04] - 13.02 [effective 11/01/04] - 13.07 (renumbered as 13.03) [effective 11/01/04]
1044	06/23/05	Revised	- 5.07 [effective 08/01/05]
1045	06/23/05	Revised	- 6.04 [effective 08/01/05]
1055	09/22/05	Revised	- 3.11 and 3.25 [effective 11/01/05]
1056	11/17/05	Revised	- 6.01 [effective 01/01/06]
1057	09/22/05	Revised	- 13.02 [effective 11/01/05]
1063	03/23/06	Revised	- 3.07, 6.01 [effective 05/01/06]
1064	03/23/06	Revised	- 6.03, 6.04 [effective 05/01/06]
1067	06/22/06	Revised	- 5.07 [effective 08/01/06]
1082	10/26/06	Revised	- 3.11 and 3.25 [effective 12/01/06]
1083	10/26/06	Revised	- 5.03 and 6.03 [effective 12/01/06]

ARTICLE 1: POLICY, SHORT TITLE, AND DEFINITIONS

SECTION 1.01 POLICY Adopted 03/13/68 (12)* Revised 11/10/71 (135), 10/10/73 (214), 09/09/99 (895)

The Puget Sound Clean Air Agency, consisting of the counties of Pierce, King, Snohomish, and Kitsap, having been activated by the Washington Clean Air Act, RCW 70.94, adopts the following Regulation to control the emission of air contaminants from all sources within the jurisdiction of the Agency, to provide for the uniform administration and enforcement of this Regulation, and to carry out the requirements and purposes of the Washington Clean Air Act and the Federal Clean Air Act.

It is hereby declared to be the public policy of the Puget Sound Clean Air Agency to secure and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and to property, foster the comfort and convenience of its inhabitants, seek public participation in policy planning and implementation, promote the economic and social development of the Puget Sound area, and facilitate the enjoyment of the natural attractions of the Puget Sound area.

SECTION 1.03 NAME OF AGENCY Adopted 03/13/68 (12) Revised 10/08/98 (872), 09/09/99 (895)

The name of the multicounty air pollution control agency comprised of the activated or inactivated air pollution control authorities of King County, Kitsap County, Pierce County, Snohomish County, and such other counties whose air pollution control authorities may now or later merge with this multicounty authority shall be known and cited as the "Puget Sound Clean Air Agency" or "Agency".

SECTION 1.05 SHORT TITLE Adopted 03/13/68 (12) Revised 09/09/99 (895)

This Regulation may be known and cited as "Regulation I of the Puget Sound Clean Air Agency".

*Numbers in parentheses are Resolution #s.

SECTION 1.07 DEFINITIONS Adopted 03/13/68 (12)

Revised 07/08/70 (126), 11/10/71 (135), 04/12/72 (141), 05/10/72 (142), 06/13/73 (194), 03/18/76 (361), 03/13/80 (461), 10/13/83 (547), 05/10/84 (556), 02/13/86 (597), 11/12/87 (616), 06/09/88 (621), 11/10/88 (634), 12/08/88 (636), 01/12/89 (639), 08/10/89 (644), 06/13/91 (700), 01/09/92 (716), 11/19/92 (738), 04/14/94 (784), 10/08/98 (872), 03/11/99 (880), 09/09/99 (895), 03/25/04 (1024)

When used herein:

- (a) **AGENCY** means the Puget Sound Clean Air Agency.
- (b) **AIR CONTAMINANT** means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.
- (c) **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. 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.
- (d) **AMBIENT AIR** means the surrounding outside air.
- (e) **BOARD** means the Board of Directors of the Puget Sound Clean Air Agency.
- (f) **COMBUSTIBLE REFUSE** means solid or liquid combustible waste material.
- (g) **CONTROL EQUIPMENT** means any device which prevents or controls the emission of any air contaminant.
- (h) **CONTROL OFFICER** means the Air Pollution Control Officer of the Puget Sound Clean Air Agency.
- (i) **EMISSION** means a release of air contaminants into the ambient air.
- (j) **EMISSION STANDARD** means a requirement established under the Federal Clean Air Act (FCAA) or chapter 70.94 RCW that 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 adopted under the FCAA or chapter 70.94 RCW.
- (k) **EQUIPMENT** or **EMISSIONS UNIT** means any part of a stationary source or source that emits or would have the potential to emit any pollutant subject to regulation under the federal Clean Air Act, chapter 70.94 or 70.98 RCW.
- (l) **FUEL BURNING EQUIPMENT** means equipment that produces hot air, hot water, steam, or other heated fluids by external combustion of fuel.

- (m) **GASOLINE** means a petroleum distillate that is a liquid at standard conditions and has a true vapor pressure greater than 4 pounds per square inch absolute at 20°C, and is used as a fuel for internal combustion engines. Also any liquid sold as a vehicle fuel with a true vapor pressure greater than 4 pounds per square inch absolute at 20°C shall be considered "gasoline" for purpose of this regulation.
- (n) **GASOLINE STATION** means any site dispensing gasoline into motor vehicle, marine vessel, or aircraft fuel tanks from stationary storage tanks.
- (o) **HAZARDOUS AIR POLLUTANT** means any air pollutant listed in or pursuant to section 112(b) of the federal Clean Air Act, 42 U.S.C. §7412.
- (p) **MOTOR VEHICLE** means any operating vehicle or one capable of being operated that has its own self-contained sources of motive power, is designed for the transportation of people or property, and is of the type for which a license is required for operation on a highway.
- (q) **MULTIPLE CHAMBER INCINERATOR** means a furnace for the destruction of waste consisting of three or more refractory-lined combustion chambers in series, physically separated by refractory walls, interconnected by gas passage ports or ducts, and employing adequate design parameters necessary for maximum combustion of the material to be burned.
- (r) **OWNER** or **OPERATOR** means the person who owns, leases, supervises, or operates the equipment or control equipment.
- (s) **PERSON** means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.
- (t) **REASONABLY AVAILABLE CONTROL TECHNOLOGY** or **RACT** means the lowest emission standard 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.
- (u) **REFUSE BURNING EQUIPMENT** means equipment employed to burn any solid or liquid combustible refuse.
- (v) **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 group 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 2-digit code) as described in the *Standard Industrial Classification Manual*, 1972, as amended by the 1977 supplement.

- (w) **TOXIC AIR CONTAMINANT** or **TAC** means any Class A or Class B toxic air pollutant listed in WAC 173-460-150 and 173-460-160. The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150 and/or 173-460-160. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.
- (x) **TRUE VAPOR PRESSURE** means the equilibrium partial pressure of a petroleum liquid as determined by methods described in American Petroleum Institute Bulletin 2517, "Evaporative Loss from External Floating Roof Tanks", May 1996.
- (y) **URBANIZED AREA** means those portions of King, Pierce, Kitsap, and Snohomish Counties designated as urbanized areas by the U.S. Department of Commerce, Bureau of the Census.
- (z) **VOLATILE ORGANIC COMPOUND** or **VOC** means an organic compound that participates in atmospheric photochemical reactions as defined in 40 CFR 51.100(s) in effect as of the federal regulation reference date listed in Section 3.25 of this regulation herein incorporated by reference.

ARTICLE 2: STATE ENVIRONMENTAL POLICY ACT

SECTION 2.01 AUTHORITY Adopted 05/10/01 (943)

The Agency adopts this regulation under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA rules, WAC 197-11-904. This regulation contains this Agency's SEPA procedures and policies. The SEPA rules must be used in conjunction with this regulation. The SEPA rules mean chapter 197-11 of the Washington Administrative Code (WAC).

SECTION 2.02 ADOPTION BY REFERENCE Adopted 05/10/01 (943)

The Agency adopts the following sections of chapter 197-11 WAC by reference:

- 197-11-040 Definitions.
- 197-11-050 Lead agency.
- 197-11-055 Timing of the SEPA process.
- 197-11-060 Content of environmental review.
- 197-11-070 Limitations on actions during SEPA process.
- 197-11-080 Incomplete or unavailable information.
- 197-11-090 Supporting documents.
- 197-11-100 Information required of applicants.
- 197-11-250 SEPA/Model Toxics Control Act integration.
- 197-11-253 SEPA lead agency for MTCA actions.
- 197-11-256 Preliminary evaluation.
- 197-11-259 Determination of nonsignificance for MTCA remedial actions.
- 197-11-262 Determination of significance and EIS for MTCA remedial actions.
- 197-11-265 Early scoping for MTCA remedial actions.
- 197-11-268 MTCA interim actions.
- 197-11-300 Purpose of this part.
- 197-11-305 Categorical exemptions.
- 197-11-310 Threshold determination required.
- 197-11-315 Environmental checklist.
- 197-11-330 Threshold determination process.
- 197-11-335 Additional information.
- 197-11-340 Determination of nonsignificance (DNS).
- 197-11-350 Mitigated DNS.
- 197-11-360 Determination of significance (DS)/initiation of scoping.
- 197-11-390 Effect of threshold determination.
- 197-11-400 Purpose of EIS.
- 197-11-402 General requirements.
- 197-11-405 EIS types.
- 197-11-406 EIS timing.
- 197-11-408 Scoping.
- 197-11-410 Expanded scoping.
- 197-11-420 EIS preparation.

197-11-425 Style and size.
 197-11-430 Format.
 197-11-435 Cover letter or memo.
 197-11-440 EIS contents.
 197-11-442 Contents of EIS on nonproject proposals.
 197-11-443 EIS contents when prior nonproject EIS.
 197-11-444 Elements of the environment.
 197-11-448 Relationship of EIS to other considerations.
 197-11-450 Cost-benefit analysis.
 197-11-455 Issuance of DEIS.
 197-11-460 Issuance of FEIS.
 197-11-500 Purpose of this part.
 197-11-502 Inviting comment.
 197-11-504 Availability and cost of environmental documents.
 197-11-508 SEPA register.
 197-11-510 Public notice.
 197-11-535 Public hearings and meetings.
 197-11-545 Effect of no comment.
 197-11-550 Specificity of comments.
 197-11-560 FEIS response to comments.
 197-11-570 Consulted agency costs to assist lead agency.
 197-11-600 When to use existing environmental documents.
 197-11-610 Use of NEPA documents.
 197-11-620 Supplemental environmental impact statement – Procedures.
 197-11-625 Addenda – Procedures.
 197-11-630 Adoption – Procedures.
 197-11-635 Incorporation by reference – Procedures.
 197-11-640 Combining documents.
 197-11-650 Purpose of this part.
 197-11-655 Implementation.
 197-11-660 Substantive authority and mitigation.
 197-11-680 Appeals.
 197-11-700 Definitions.
 197-11-702 Act.
 197-11-704 Action.
 197-11-706 Addendum.
 197-11-708 Adoption.
 197-11-710 Affected tribe.
 197-11-712 Affecting.
 197-11-714 Agency.
 197-11-716 Applicant.
 197-11-718 Built environment.
 197-11-720 Categorical exemption.
 197-11-722 Consolidated appeal.
 197-11-724 Consulted agency.
 197-11-726 Cost-benefit analysis.

197-11-728 County/city.
197-11-730 Decision maker.
197-11-732 Department.
197-11-734 Determination of nonsignificance (DNS).
197-11-736 Determination of significance (DS).
197-11-738 EIS.
197-11-740 Environment.
197-11-742 Environmental checklist.
197-11-744 Environmental document.
197-11-746 Environmental review.
197-11-750 Expanded scoping.
197-11-752 Impacts.
197-11-754 Incorporation by reference.
197-11-756 Lands covered by water.
197-11-758 Lead agency.
197-11-760 License.
197-11-762 Local agency.
197-11-764 Major action.
197-11-766 Mitigated DNS.
197-11-768 Mitigation.
197-11-770 Natural environment.
197-11-772 NEPA.
197-11-774 Nonproject.
197-11-776 Phased review.
197-11-778 Preparation.
197-11-780 Private project.
197-11-782 Probable.
197-11-784 Proposal.
197-11-786 Reasonable alternative.
197-11-788 Responsible official.
197-11-790 SEPA.
197-11-792 Scope.
197-11-793 Scoping.
197-11-794 Significant.
197-11-796 State agency.
197-11-797 Threshold determination.
197-11-799 Underlying governmental action.
197-11-800 Categorical exemptions.
197-11-880 Emergencies.
197-11-890 Petitioning DOE to change exemptions.
197-11-900 Purpose of this part.
197-11-902 Agency SEPA policies.
197-11-916 Application to ongoing actions.
197-11-920 Agencies with environmental expertise.
197-11-922 Lead agency rules.
197-11-924 Determining the lead agency.

- 197-11-926 Lead agency for governmental proposals.
- 197-11-928 Lead agency for public and private proposals.
- 197-11-930 Lead agency for private projects with one agency with jurisdiction.
- 197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
- 197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
- 197-11-936 Lead agency for private projects requiring licenses from more than one state agency.
- 197-11-938 Lead agencies for specific proposals.
- 197-11-940 Transfer of lead agency status to a state agency.
- 197-11-942 Agreements on lead agency status.
- 197-11-944 Agreements on division of lead agency duties.
- 197-11-946 DOE resolution of lead agency disputes.
- 197-11-948 Assumption of lead agency status.
- 197-11-960 Environmental checklist.
- 197-11-965 Adoption notice.
- 197-11-970 Determination of nonsignificance (DNS).
- 197-11-980 Determination of significance and scoping notice (DS).
- 197-11-985 Notice of assumption of lead agency status.
- 197-11-990 Notice of action.

SECTION 2.03 DESIGNATION OF RESPONSIBLE OFFICIAL

Adopted 05/10/01 (943)

- (a) For proposals for which the Agency is the lead agency, the responsible official shall be the Control Officer or Agency employee designated by the Control Officer.
- (b) For all proposals for which the Agency is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the “lead agency” or “responsible official” by those sections of the SEPA rules adopted by reference in Section 2.02 of this regulation.
- (c) The Agency shall retain all documents required by the SEPA rules (chapter 197-11 WAC) and make them available in accordance with chapter 42.17 RCW.

SECTION 2.04 LEAD AGENCY DETERMINATION AND RESPONSIBILITIES

Adopted 05/10/01 (943)

- (a) When the Agency receives an application for or initiates a proposal that involves a nonexempt action, the Agency shall determine the lead agency for that proposal under WAC 197-11-050, 197-11-253, and 197-11-922 through

197-11-940; unless the lead agency has been previously determined or the Agency is aware that another agency is in the process of determining the lead agency. When the Agency is the lead agency for a proposal, the responsible official shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.

- (b) When the Agency is not the lead agency for a proposal, the Agency shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. The Agency shall not prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the Agency may conduct supplemental environmental review under WAC 197-11-600.
- (c) If the Agency receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-253 or 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within 15 days of receipt of the determination, or the Agency must petition the Department of Ecology for a lead agency determination under WAC 197-11-946 within the 15-day time period. Any such petition on behalf of the Agency may be initiated by the Control Officer.
- (d) The Agency may make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944.
- (e) When the Agency makes a lead agency determination for a private project, the Agency shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal.

SECTION 2.05 USE OF EXEMPTIONS Adopted 05/10/01 (943)

- (a) When the Agency receives an application for a permit or, in the case of governmental proposals, the Agency initiates the proposal, the Agency shall determine whether the permit and/or the proposal is exempt. The Agency's determination that a permit or proposal is exempt shall be final and not subject to administrative review. If a permit or proposal is exempt, none of the procedural requirements of this regulation apply to the proposal. The Agency shall not require completion of an environmental checklist for an exempt permit or proposal.
- (b) In determining whether or not a proposal is exempt, the Agency shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the Agency shall determine the lead agency, even if the license application that triggers the Agency's consideration is exempt.

- (c) If a proposal includes both exempt and nonexempt actions, the Agency may authorize exempt actions prior to compliance with the procedural requirements of this regulation, except that:
- (1) The Agency shall not give authorization for:
 - (A) Any nonexempt action;
 - (B) Any action that would have an adverse environmental impact; or
 - (C) Any action that would limit the choice of alternatives.
 - (2) The Agency may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and
 - (3) The Agency may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

SECTION 2.06 ENVIRONMENTAL CHECKLIST Adopted 05/10/01 (943)

- (a) A completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this regulation; except, a checklist is not needed if the Agency and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The Agency shall use the environmental checklist to determine the lead agency and, if the Agency is the lead agency, for determining the responsible official and for making the threshold determination.
- (b) For private proposals, the Agency will require the applicant to complete the environmental checklist, providing assistance as necessary. For Agency proposals, the Agency shall complete the environmental checklist. The Agency may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs:
- (1) The Agency has technical information on a question or questions that is unavailable to the private applicant; or
 - (2) The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

SECTION 2.07 MITIGATED DNS Adopted 05/10/01 (943)

- (a) As provided in this section and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the

responsible official or on changes to, or clarifications of, the proposal made by the applicant.

- (b) An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. “Early notice” means the Agency’s response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant’s proposal. The request must:
 - (1) Follow submission of a complete permit application and environmental checklist for a nonexempt proposal for which the Agency is lead agency; and
 - (2) Precede the Agency’s actual threshold determination for the proposal.
- (c) The responsible official shall respond to the request for early notice within 30 working days. The response shall:
 - (1) Be written;
 - (2) State whether the Agency currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the Agency to consider a DS; and
 - (3) State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.
- (d) As much as possible, the Agency should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.
- (e) When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the Agency shall base its threshold determination on the changed or clarified proposal and shall make the determination within 15 days of receiving the changed or clarified proposal:
 - (1) If the Agency indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the Agency shall issue and circulate a DNS under WAC 197-11-340(2).
 - (2) If the Agency indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the Agency shall make the threshold determination, issuing a DNS or DS as appropriate.
 - (3) The applicant's proposed mitigation measures (clarifications, changes, or conditions) must be in writing and must be specific.
 - (4) Mitigation measures that justify issuance of a mitigated DNS may be incorporated in the DNS by reference to Agency staff reports, studies, or other documents

- (f) Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the Agency.
- (g) If the Agency's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the Agency should evaluate the threshold determination to ensure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).
- (h) The Agency's written response under Section 2.07(c) of this regulation shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the Agency to consider the clarifications or changes in its threshold determination.

SECTION 2.08 PREPARATION OF EIS – ADDITIONAL CONSIDERATIONS

Adopted 05/10/01 (943)

- (a) Preparing a draft and final EIS (DEIS and FEIS) and draft and final supplemental EIS (SEIS) is the responsibility of the responsible official. Before the Agency issues an EIS, the responsible official shall be satisfied that it complies with this regulation and chapter 197-11 WAC.
- (b) The DEIS and FEIS or draft and final SEIS shall be prepared by Agency staff or by a consultant selected by the Agency. The Agency retains sole authority to select persons or firms to author, co-author, provide special services, or otherwise participate in preparing required environmental documents. If the responsible official requires an EIS for a proposal and determines that someone other than the Agency will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the Agency's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.
- (c) The Agency may require an applicant to provide information the Agency does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this regulation or that is being requested from another agency. (This does not apply to information the Agency may request under another regulation or statute.)

SECTION 2.09 ADDITIONAL ELEMENTS TO BE COVERED IN AN EIS

Adopted 05/10/01 (943)

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

- (a) Economy
- (b) Social policy analysis
- (c) Cost-benefit analysis

SECTION 2.10 PUBLIC NOTICE Adopted 05/10/01 (943)

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

- (8) Posting notice on the Agency website.
- (c) Whenever possible, the Agency shall integrate the public notice required under this section with existing notice procedures for the Agency's nonexempt permit(s) or approval(s) required for the proposal.
- (d) The Agency may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense.

**SECTION 2.11 DESIGNATION OF OFFICIAL TO PERFORM
CONSULTED AGENCY RESPONSIBILITIES FOR THE AGENCY**

Adopted 05/10/01 (943)

- (a) The Control Officer shall be responsible for preparing written comments for the Agency in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.
- (b) The Control Officer shall be responsible for the Agency's compliance with WAC 197-11-550 whenever the Agency is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from the Agency.

SECTION 2.12 SEPA SUBSTANTIVE AUTHORITY Adopted 05/10/01 (943)

- (a) The policies and goals set forth in this section supplement those in the existing authority of the Agency.
- (b) Any governmental action on public or private proposals that are not exempt may be conditioned or denied under SEPA to mitigate the environmental impact, subject to the following limitations:
 - (1) Mitigation measures or denials shall be based on policies, plans, rules, or regulations designated in this article as a basis for the exercise of substantive authority and in effect when the DNS or DEIS is issued. The responsible official shall cite the Agency's SEPA policy that is the basis of any condition or denial under this regulation (for proposals of applicants).
 - (2) Mitigation measures shall be related to specific, adverse environmental impacts clearly identified in an environmental document on the proposal and shall be stated in writing by the responsible official. Such document may be the permit itself, or may be combined with other Agency documents, or may reference relevant portions of environmental documents.
 - (3) Mitigation measures shall be reasonable and capable of being accomplished.

- (4) Responsibility for implementing mitigation measures may be imposed upon an applicant only to the extent attributable to the identified adverse impacts of its proposal. Voluntary additional mitigation may occur.
 - (5) The Agency shall consider whether local, state, or federal requirements and enforcement would mitigate an identified significant impact.
 - (6) To deny a proposal under SEPA, the Agency must find that:
 - (A) The proposal would be likely to result in significant adverse environmental impacts identified in a final or supplemental EIS prepared pursuant to this regulation; and
 - (B) Reasonable mitigation measures are insufficient to mitigate the identified impact.
- (c) The Agency designates and adopts by reference the following policies, plans, rules, and regulations as the potential bases for the Agency's exercise of substantive authority under SEPA, pursuant to this section:
- (1) The Agency shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:
 - (A) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
 - (B) Ensure for all people of Washington, safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
 - (C) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
 - (D) Preserve important historic, cultural, and natural aspects of our national heritage;
 - (E) Maintain, wherever possible, an environment that supports diversity and variety of individual choice;
 - (F) Achieve a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities; and
 - (G) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.
 - (2) The Agency recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

- (3) The Agency adopts by reference the policies in the following laws and Agency resolutions, regulations, and plans:
 - (A) Federal and state Clean Air Acts, and regulations adopted thereunder.
 - (B) Agency Regulations I, II, and III.
 - (C) Resolutions adopted by the Agency Board of Directors.
 - (D) Maintenance plans.
 - (E) Washington State Implementation Plan.
 - (F) Final Report of the Agency PM_{2.5} Stakeholder Group, dated October 15, 1999.
- (4) The Agency establishes the following additional policies:
 - (A) Air quality
 - (i) Policy Background
 - (a) Air pollution can be damaging to human health, plants and animals, visibility, aesthetics, and the overall quality of life.
 - (b) The Agency is responsible for monitoring air quality in the Puget Sound area, setting standards, and regulating development to achieve regional air quality standards.
 - (c) Federal, state, and regional regulations and programs cannot always anticipate or adequately mitigate adverse air quality impacts.
 - (ii) Policies
 - (a) To minimize or prevent adverse air quality impacts.
 - (b) To secure and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and to property, foster the comfort and convenience of its inhabitants, seek public participation in policy planning and implementation, promote the economic and social development of the Puget Sound area, and facilitate the enjoyment of the natural attractions of the Puget Sound area.
 - (c) To eliminate emissions of ozone-depleting chlorofluorocarbons, in the interests of national and global environmental protection; and to consider energy efficiency and conservation to reduce greenhouse gases.
 - (d) To reduce woodstove emissions by educating the public about the effects of woodstove emissions, other heating alternatives, and the desirability of achieving better

emission performance and heating efficiency from woodstoves pursuant to standards adopted by the Department of Ecology; and to encourage replacing uncertified woodstoves with cleaner sources of heat.

- (e) To reduce outdoor burning to the greatest extent practical.
- (f) To develop and adopt strategies for effectively reducing or eliminating impacts from toxic air contaminants.
- (g) To control volatile organic compound (VOC) emissions in order to maintain the National Ambient Air Quality Standard for ozone.
- (h) If the responsible official makes a written finding that the applicable federal, state, and/or regional regulations did not anticipate or are inadequate to address the particular impact(s) of a project, the responsible official may condition or deny the proposal to mitigate its adverse impacts.

(B) Land Use

(i) Policy background

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

(ii) Policies

- (a) To ensure that proposed uses in projects are reasonably compatible with surrounding uses and are consistent with applicable air quality regulations.
- (b) To reduce regional air pollution emissions associated with land uses by promoting clean alternative forms of domestic use fuels, including natural gas, in new single and multifamily housing developments within urban growth areas. In addition, to discourage wood as a source of heat for residential development in low-lying areas susceptible to pollution accumulations.
- (c) To encourage municipal curbside solid and yard waste collection services at reasonable costs.

(C) Transportation

- (i) Policy Background
 - (a) Excessive traffic can adversely affect regional air quality.
 - (b) Substantial traffic volumes associated with major projects may adversely impact air quality in surrounding areas.
- (ii) Policies
 - (a) To minimize or prevent adverse traffic impacts that would undermine the air quality of a neighborhood or surrounding areas.
 - (b) To promote transportation demand and systems management actions designed to reduce vehicle emissions by reducing the use of single occupancy vehicles, reducing traffic congestion, and increasing public transportation services.
 - (c) To encourage integrating land use and transportation planning.
 - (d) To emphasize the importance of air quality conformity determinations required for proposed transportation plans, programs, and projects.
 - (e) To pursue and support alternative and clean fuels projects and programs.
 - (f) To promote and support land use plans and projects designed to reduce vehicle emissions by reducing the use of single occupant vehicles, number of vehicle miles traveled, and traffic congestion; and supporting the use of public transportation.
 - (g) In determining the necessary air quality impact mitigation, the responsible official will examine the mitigation proposed by the local jurisdiction.
- (D) Cumulative Effects
 - (i) The analysis of cumulative effects shall include a reasonable assessment of:
 - (a) The capacity of natural systems, such as air, water, light, and land, to absorb the direct and reasonably anticipated indirect impacts of the proposal, and
 - (b) The demand upon facilities, services, and natural systems of present, simultaneous, and known future development in the area of the project or action.
 - (ii) An action or project may be conditioned or denied to lessen or eliminate its cumulative effects on the environment:

- (a) When considered together with prior, simultaneous, or induced future development; or
- (b) When, taking into account known future development under established zoning or other regulations, it is determined that a project will use more than its share of present and planned facilities, services, and natural systems.

SECTION 2.13 NOTICE/STATUTE OF LIMITATIONS Adopted 05/10/01 (943)

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

SECTION 2.14 FEES Adopted 05/10/01 (943)

In addition to the fees set forth in Article 6, the following fees apply:

(a) **Threshold Determination**

The Agency may contract directly with a consultant for preparation of an environmental checklist or other information needed for the Agency to make a threshold determination, and may bill such costs and expenses directly to the applicant. The Agency may require the applicant to post bond or otherwise ensure payment of such costs and expenses. In addition, the Agency may charge and collect a reasonable fee from any applicant to cover the costs incurred by the Agency in preparing an environmental checklist or other information needed for the Agency to make a threshold determination.

(b) **Environmental Impact Statement**

(1) When the Agency is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the Agency, the Agency may charge and collect a reasonable fee from any applicant to cover costs incurred by the Agency in preparing the EIS. The responsible official shall advise the applicant(s) of the projected costs for the EIS prior to actual preparation; the applicant shall post bond or otherwise ensure payment of such costs.

(2) The responsible official may determine that the Agency will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than the Agency and may bill such costs and expenses directly to the applicant. The Agency may require the applicant to post bond or otherwise ensure payment of such costs.

- (3) If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under Section 2.14(a) or (b) of this regulation that remain after incurred costs are paid.
- (c) The Agency may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this regulation relating to the applicant's proposal.
- (d) The Agency shall not collect a fee for performing its duties as a consulted agency, except as provided in WAC 197-11-570.
- (e) The Agency may charge any person for copies of any document prepared under this ordinance, and for mailing the document, in a manner provided by chapter 42.17 RCW.

ARTICLE 3: GENERAL PROVISIONS

SECTION 3.01 DUTIES AND POWERS OF THE CONTROL OFFICER

Adopted 03/13/68 (12)
Revised 08/08/91 (702), 02/10/94 (777), 09/09/99 (895)

Pursuant to the provisions of the "Washington Clean Air Act" (Chapter 70.94 RCW), the Board has appointed a Control Officer whose sole responsibility is to observe and enforce the provisions of the Act and all orders, rules, and regulations pursuant thereto, including but not limited to Regulations I, II, and III of the Puget Sound Clean Air Agency. The Control Officer is empowered by the Board to sign official complaints, issue citations, initiate court suits, or use other legal means to enforce the provisions of the Act.

SECTION 3.02 MEETINGS OF THE BOARD OF DIRECTORS

Adopted 09/10/98 (870), Revised 06/14/01 (946)

- (a) **Regular Meetings.** The Agency Board of Directors shall meet at least ten (10) times per year. All Board of Director meetings are open to the public. Regular meetings of the Board shall be held on the second Thursday of each month at the Agency's offices. The Agency's offices are located at 110 Union Street, Suite 500, Seattle, WA 98101-2038. The Agency may be reached by telephone at (206) 343-8800 or 1-800-552-3565, or by facsimile at (206) 343-7522.

Notice of the meetings shall be published in the State Register, as well as in the local newspapers of general circulation of the largest city within each member county. The notices shall state the time, date, and place of each meeting. Notice shall be provided at least ten (10) days prior to each meeting. The agenda for any meeting may be obtained by contacting the Agency directly.

During any meeting, the Board may retire to Executive Session, at which time all members of the public shall be excluded from the meeting.

Written communications to the Board or individual Board members may be made by contacting the Agency at the above address and facsimile number.

- (b) **Special Meetings.** The Chair or majority of the members of the Board may call a special meeting at any time. Notice of such meetings shall be provided as required by the Open Public Meetings Act, chapter 42.30 RCW.
- (c) **Public Records.** All minutes and records of all regular and special Board meetings, including written communications provided to the Board, shall be available for public inspection and copying as provided in the Public Disclosure Law, chapter 42.17 RCW. Any person wishing to review or copy such records should contact the Agency's records administrator.

SECTION 3.03 GENERAL REGULATORY ORDERS Adopted 06/13/96 (832)
Revised 09/11/97 (856), 03/11/99 (882), 09/09/99 (895), 05/22/03 (992)

- (a) **Purpose.** The Board may, by regulatory order, apply to a specific source or sources any applicable provision of chapter 70.94 RCW or the rules adopted thereunder.
- (b) **Public Involvement Process.** The Board may issue a regulatory order after the following public involvement process has been completed:
 - (1) Public notice of the proposed order shall be published in a newspaper of general circulation in the area where the source that is the subject of the order is located. Notice shall also be sent to the U.S. Environmental Protection Agency Regional Administrator. The public notice shall include, at a minimum, the following information:
 - (A) The name and address of the owner or operator and the source;
 - (B) A brief description of the purpose of the proposed order and the requirements included in the proposed order;
 - (C) The deadline for submitting written comments to the Agency; and
 - (D) The opportunity for a public hearing if the Agency determines that there is significant public interest in the proposed order.
 - (2) The initial public comment period shall be at least 30 days.
 - (3) During the initial 30-day public comment period, any person may request a public hearing be held. Any such request shall be submitted in writing to the Agency, shall indicate the interest of the entity filing it, and describe why a hearing is warranted. The Agency may, at its discretion, hold a public hearing if it determines significant public interest exists. Any such hearing shall be held before a hearing officer and upon such notice and at a time and place as the Agency deems reasonable. The hearing officer shall hear testimony at the public hearing and prepare a written summary of the testimony received at the hearing. The Agency shall provide at least 30 days prior notice of any hearing. If a public hearing is held, the public comment period shall extend through the hearing date.
- (c) **Board Action.** The Board shall only issue an order under this section after:
 - (1) The public comment period has ended;
 - (2) Any public hearing scheduled has been held; and
 - (3) The Board has considered all information and data related to the proposed order received by the Agency, including all written comments received and any summary of testimony prepared by the hearing officer.

The Board shall take action on a proposed order at a Board meeting. Unless otherwise ordered by the Board, an order issued under this section shall be effective on the date the Board approves the order.

- (d) **Appeals.** Orders issued by the Board under this section may be appealed to the Pollution Control Hearings Board pursuant to Section 3.17 of Regulation I and RCW 43.21B.310.
- (e) **Fees.** When a general regulatory order is requested by an applicant, the Agency shall assess a fee of \$4,000 to cover the costs of processing and issuing a general regulatory order under this section. The Agency shall also assess a fee equal to the cost of providing public notice in accordance with Section 3.03(b) of this regulation. These fees shall be due and payable within 30 days of the date of the invoice and shall be deemed delinquent if not fully paid within 90 days of the invoice.

SECTION 3.04 REASONABLY AVAILABLE CONTROL TECHNOLOGY

Adopted 09/11/97 (856)
Revised 03/11/99 (882), 03/25/04 (1024)

- (a) Reasonably Available Control Technology (RACT) is required for all existing sources.
- (b) RACT for each source category containing 3 or more sources shall be determined by rule, except as provided in Section 3.04(c) of this regulation.
- (c) Source-specific RACT determinations may be performed under any of the following circumstances:
 - (1) For replacement of existing control equipment under Article 6 of this regulation;
 - (2) When required by the federal Clean Air Act;
 - (3) For sources in source categories containing fewer than 3 sources;
 - (4) When an air quality problem, for which the source is a contributor, justifies a source-specific RACT determination prior to development of a categorical RACT rule; or
 - (5) When a source-specific RACT determination is needed to address either specific air quality problems, for which the source is a significant contributor, or source-specific economic concerns.
- (d) Under any of the circumstances listed in Section 3.04(c) of this regulation, the Control Officer or a duly authorized representative shall have the authority to perform a source-specific RACT analysis or to order the owner or operator to perform the analysis and submit the results to the Agency.
- (e) In the event that the Agency performs a source-specific RACT analysis of a source, the Agency shall assess a fee against that source to cover the cost of performing the analysis. The fee for an analysis performed by the Agency shall be \$5,000.00. (Replacement of control equipment under Section 3.04(c)(1) shall be subject to the notice of construction review fees under Section 6.04, in lieu of a RACT fee under this section.) This fee shall be due and payable within 30 days of the date of the invoice and shall be deemed delinquent if not fully paid within 90 days of the invoice.

- (f) Where current controls are determined to be less than RACT, the Agency shall define RACT for that source or source category and issue a rule or a regulatory order under Section 3.03 of this regulation requiring the installation of RACT.
- (g) Emission standards and other requirements contained in rules or regulatory orders in effect at the time of operating permit issuance shall be considered RACT for purposes of permit issuance or renewal.

SECTION 3.05 INVESTIGATIONS BY THE CONTROL OFFICER

Adopted 03/13/68 (12)
Revised 12/09/82 (531), 02/13/86 (597), 11/12/87 (616), 08/08/91 (702), 02/10/94 (777)

- (a) For the purpose of investigating conditions specific to the control, recovery, or release of air contaminants into the atmosphere, the Control Officer or a duly authorized representative shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing two families or less. No person shall refuse access to the Control Officer or a duly authorized representative who requests entry for the purpose of inspection, and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection.
- (b) For the purpose of determining compliance with an emission standard, the Control Officer or a duly authorized representative shall have the authority to conduct testing of a source or to order the owner or operator of the source to have it tested and to report the results to the Agency. In the event the Agency conducts the test, the Agency shall provide the owner or operator an opportunity to observe the sampling and to obtain a sample at the same time.

SECTION 3.06 CREDIBLE EVIDENCE Adopted 10/08/98 (872)

For the purpose of establishing whether or not a person has violated or is in violation of any provision of chapter 70.94 RCW, any rule enacted pursuant to that chapter, or any permit or order issued thereunder, nothing in this regulation shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test procedures or methods had been performed.

SECTION 3.07 COMPLIANCE TESTS Adopted 02/10/94 (777)

Revised 02/09/95 (813), 03/23/06 (1063)

- (a) Testing of sources for compliance with emission standards shall be performed in accordance with current U.S. Environmental Protection Agency approved methods unless specific methods have been adopted by the Board. Where there is no federally approved or Board approved method, testing shall be performed in accordance with a method approved in writing by the Control Officer.

- (b) The owner or operator of a source shall notify the Agency in writing at least 21 days prior to any compliance test. Notification of a compliance test shall be submitted on forms provided by the Agency. Test notifications using the Agency forms do not constitute test plans. Compliance with this notification provision does not satisfy any obligation found in an order or other regulatory requirement to submit a test plan for Agency review. Notification under Section 3.07(b) of this regulation does not waive or modify test notification requirements found in other applicable regulations.
- (c) The owner or operator of any source required to perform a compliance test shall submit a report to the Agency no later than 60 days after the test. The report shall include:
 - (1) A description of the source and the sampling location;
 - (2) The time and date of the test;
 - (3) A summary of results, reported in units and for averaging periods consistent with the applicable emission standard;
 - (4) A description of the test methods and quality assurance procedures employed;
 - (5) The amount of fuel burned or raw material processed by the source during the test;
 - (6) The operating parameters of the source and control equipment during the test;
 - (7) Field data and example calculations; and
 - (8) A statement signed by the senior management official of the testing firm certifying the validity of the source test report.

SECTION 3.09 VIOLATIONS – NOTICE Adopted 03/13/68 (12)
Revised 11/10/71 (135), 11/12/87 (616), 08/08/91 (702)

- (a) At least 30 days prior to the commencement of any formal enforcement action under RCW 70.94.430 or 70.94.431, the Board or Control Officer shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the provisions of Chapter 70.94 RCW or the orders, rules, or regulations adopted pursuant thereto, alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order directing that necessary corrective action be taken within a reasonable time. In lieu of an order, the Board or the Control Officer may require that the alleged violator or violators appear before the Board for a hearing. Every notice of violation shall offer to the alleged violator an opportunity to meet with the Agency prior to the commencement of enforcement action.
- (b) Each act of commission or omission which procures, aids, or abets in the violation shall be considered a violation and be subject to the same penalty.
- (c) In case of a continuing violation, whether or not knowingly committed, each day's continuance shall be a separate and distinct violation.

SECTION 3.11 CIVIL PENALTIES Adopted 07/09/69 (25)

Revised 11/10/71 (135), 05/10/84 (556), 11/12/87 (616), Revised/Renumbered 08/08/91 (702), Revised 09/10/92 (734), 07/08/93 (756), 09/08/94 (798), 09/14/95 (821), 09/12/96 (839), 09/11/97 (856), 09/10/98 (870), 09/09/99 (895), 07/13/00 (925), 09/13/01 (954), 09/26/02 (978), 09/25/03 (1009), 09/23/04 (1036), 09/22/05 (1055), 10/26/06 (1082)

- (a) Any person who violates any of the provisions of chapter 70.94 RCW or any of the rules or regulations in force pursuant thereto, may incur a civil penalty in an amount not to exceed \$15,127.00 per day for each violation.
- (b) Any person who fails to take action as specified by an order issued pursuant to chapter 70.94 RCW or Regulations I, II, and III of the Puget Sound Clean Air Agency shall be liable for a civil penalty of not more than \$15,127.00 for each day of continued noncompliance.
- (c) Within 30 days of the date of receipt of a Notice and Order of Civil Penalty, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. To be considered timely, a mitigation request must be actually received by the Agency, during regular office hours, within 30 days of the date of receipt of a Notice and Order of Civil Penalty. This time period shall be calculated by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or legal holiday, and then it is excluded and the next succeeding day that is not a Saturday, Sunday, or legal holiday is included. The date stamped by the Agency on the mitigation request is prima facie evidence of the date the Agency received the request.
- (d) A mitigation request must contain the following:
 - (1) The name, mailing address, telephone number, and telefacsimile number (if available) of the party requesting mitigation;
 - (2) A copy of the Notice and Order of Civil Penalty involved;
 - (3) A short and plain statement showing the grounds upon which the party requesting mitigation considers such order to be unjust or unlawful;
 - (4) A clear and concise statement of facts upon which the party requesting mitigation relies to sustain his or her grounds for mitigation;
 - (5) The relief sought, including the specific nature and extent; and
 - (6) A statement that the party requesting mitigation has read the mitigation request and believes the contents to be true, followed by the party's signature.

The Control Officer shall remit or mitigate the penalty only upon a demonstration by the requestor of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

- (e) Any civil penalty may also be appealed to the Pollution Control Hearings Board pursuant to chapter 43.21B RCW and chapter 371-08 WAC. An appeal must be filed with the Hearings Board and served on the Agency

within 30 days of the date of receipt of the Notice and Order of Civil Penalty or the notice of disposition on the application for relief from penalty.

- (f) A civil penalty shall become due and payable on the later of:
 - (1) 30 days after receipt of the notice imposing the penalty;
 - (2) 30 days after receipt of the notice of disposition on application for relief from penalty, if such application is made; or
 - (3) 30 days after receipt of the notice of decision of the Hearings Board if the penalty is appealed.
- (g) If the amount of the civil penalty is not paid to the Agency within 30 days after it becomes due and payable, the Agency may bring action to recover the penalty in King County Superior Court or in the superior court of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.
- (h) Civil penalties incurred but not paid shall accrue interest beginning on the 91st day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the 31st day following final resolution of the appeal.
- (i) To secure the penalty incurred under this section, the Agency shall have a lien on any vessel used or operated in violation of Regulations I, II, and III which shall be enforced as provided in RCW 60.36.050.

SECTION 3.13 CRIMINAL PENALTIES Adopted 03/13/68 (12)
Revised 10/10/73 (214), 05/10/84 (556), Revised/Renumbered 08/08/91 (702)

- (a) Any person who knowingly violates any of the provisions of Chapter 70.94 RCW or any rules or regulations in force pursuant thereto, shall be guilty of a crime and upon conviction thereof, shall be punished by a fine of not more than \$10,000.00, or by imprisonment in the county jail for not more than 1 year, or by both for each separate violation.
- (b) Any person who negligently releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm shall be guilty of a crime and shall, upon conviction, be punished by a fine of not more than \$10,000.00, or by imprisonment for not more than 1 year, or both.
- (c) Any person who knowingly releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who

knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, shall be guilty of a crime and shall, upon conviction, be punished by a fine of not less than \$50,000.00, or by imprisonment for not more than 5 years, or both.

SECTION 3.15 ADDITIONAL ENFORCEMENT Adopted 03/13/68 (12)

Revised/Renumbered 08/08/91 (702)

- (a) Notwithstanding the existence or use of any other remedy, whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of Chapter 70.94 RCW, or any order, rule, or regulation issued by the Board or the Control Officer or a duly authorized agent, the Board, after notice to such person and an opportunity to comply, may petition the superior court of the county wherein the violation is alleged to be occurring or to have occurred for a restraining order or a temporary or permanent injunction or another appropriate order.
- (b) As an additional means of enforcement, the Board or Control Officer may accept an assurance of discontinuance of any act or practice deemed in violation of Chapter 70.94 RCW or of any order, rule, or regulation adopted pursuant thereto, from any person engaging in, or who has engaged in, such act or practice. Any such assurance shall specify a time limit during which such discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of this chapter or the orders, rules, or regulations issued pursuant thereto, which make the alleged act or practice unlawful for the purpose of securing any injunction or other relief from the superior court.

SECTION 3.17 APPEAL OF ORDERS Adopted 03/13/68 (12)

Revised 07/09/69 (25), 11/10/71 (135), 11/12/87 (616), Revised/Renumbered 08/08/91 (702), Revised 10/08/98 (872)

- (a) Any order of the Board or Control Officer may be appealed to the Pollution Control Hearings Board if the appeal is filed with the Hearings Board and served on the Agency within 30 days after receipt of the order. This is the exclusive means of appeal of such an order.
- (b) The Control Officer may stay the effectiveness of an order during the pendency of such an appeal. At any time during the pendency of such an appeal of such an order to the Hearings Board, the appellant may apply to the Hearings Board pursuant to chapter 43.21B RCW and chapter 371-08 WAC for a stay of the order or for the removal thereof.
- (c) Upon failure to comply with any final order of the Board or Control Officer, the attorney for the Agency, upon request of the Board or Control Officer, may bring an action in the superior court of the county where the violation occurred or the potential violation is about to occur to obtain such relief as necessary.

SECTION 3.19 CONFIDENTIAL INFORMATION Adopted 03/13/68 (12)
Revised 10/10/73 (214), 06/09/88 (621), Revised/Renumbered 08/08/91 (702)

Whenever any records or other information, other than ambient air quality data or emission data, furnished to or obtained by the Agency, pursuant to any sections in Chapter 70.94 RCW, relates to processes or production unique to the owner or operator, or are likely to affect adversely the competitive position of such owner or operator if released to the public or to a competitor, and the owner or operator of such processes or production so certifies, such records or information shall be only for the confidential use of the Agency. Nothing herein shall be construed to prevent the use of records or information by the Agency in compiling or publishing analysis or summaries relating to the general condition of the outdoor atmosphere: Provided, that such analysis or summaries do not reveal any information otherwise confidential under the provisions of this section: Provided further, that emission data furnished to or obtained by the Agency shall be correlated with applicable emission limitations and other control measures and shall be available for public inspection during normal business hours at offices of the Agency.

SECTION 3.21 SEPARABILITY Adopted 03/13/68 (12)
Revised/Renumbered 08/08/91 (702)

If any provision of Regulation I, II, or III is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality or validity of every other provision of the Regulations shall not be affected thereby.

SECTION 3.23 ALTERNATE MEANS OF COMPLIANCE Adopted 12/09/93 (769)
Revised 09/12/96 (839)

Other emission reduction methods may be employed to achieve compliance with the emissions standards of Regulations I, II, and III if the owner or operator demonstrates to the satisfaction of the Control Officer that they are at least as effective as the required methods and they are included in a regulatory order issued under Section 3.03 or a permit issued under Article 6 or 7 of this Regulation.

SECTION 3.25 FEDERAL REGULATION REFERENCE DATE
Adopted 09/13/01 (954)
Revised 09/26/02 (978), 09/25/03 (1009), 09/23/04 (1036), 09/22/05 (1055), 10/26/06 (1082)

Whenever federal regulations are referenced in Regulation I, II, or III, the effective date shall be July 1, 2006.

ARTICLE 4: VARIANCES

SECTION 4.01 VARIANCES Adopted 03/13/68 (12)

Revised 07/09/69 (25), 11/10/71 (135), 08/15/74 (264), Revised/Re-numbered 08/08/91 (702), Revised 12/09/99 (905)

- (a) Any person who owns or is in control of any plant, building, structure, establishment, process or equipment including a group of persons who owns or controls like processes or like equipment, or any material subject to Article 8 of this regulation, may apply to the Board for a variance from rules or regulations governing the quality, nature, duration, or extent of discharge of air contaminants. The application shall be accompanied by such information and data as the Board may require. The total time period for a variance and renewal of such variance shall not exceed 1 year. Variances to state rules shall require the approval of the Department of Ecology. The Board may grant such variance, but only after public hearing or due notice, if it finds that:
- (1) The emissions occurring or proposed to occur do not endanger public health or safety or the environment; and
 - (2) Compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public.
- (b) In addition to the requirements of Section 4.01(a) above, applications seeking a variance shall not be considered complete unless the applicant provides:
- (1) A list of interested parties and neighbors within 500 feet or more of the property on which the variance is proposed to occur, as deemed necessary by the Air Pollution Control Officer; and
 - (2) For a variance from Article 8 of this regulation, written estimates of the cost of removing, recycling, or reducing the material in place versus burning the material.
- (c) No variance shall be granted pursuant to this section until the Board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public. The Air Pollution Control Officer shall conduct a fact-finding public hearing, upon due notice being published and sent to all interested parties within 500 feet of the property on which the variance is proposed. The Air Pollution Control Officer may require notice to parties beyond 500 feet if deemed necessary. A 30-day advance public notice shall be published in a newspaper of general circulation in the area of the proposed variance and shall include the following information:
- (1) The time, date, and place of the hearing;
 - (2) The name and address of the owner or operator and the source;

- (3) A brief description of the variance request; and
 - (4) The deadline for submitting written comments to the Agency.
- (d) After the hearing is held, the Air Pollution Control Officer shall make written findings and forward same with a recommended decision on the variance to the Board. The Board shall take action at a regular board meeting.
- (e) Any variance or renewal thereof shall be granted within the requirements of Section 4.01(a) and under conditions consistent with the reasons therefor, and within the following limitations:
- (1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available, and subject to the taking of any substitute or alternate measures that the Board may prescribe.
 - (2) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the Board is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.
 - (3) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in Section 4.01(e)(1) and 4.01(e)(2), it shall be for not more than 1 year.
- (f) In addition to the criteria provided by state and federal statutes, the Air Pollution Control Officer may consider the following factors in making findings regarding requests seeking a variance from Article 8 of this regulation:
- (1) Unusual individual sites, such as those that are bisected by the no-burn boundary; and
 - (2) Unusual economic factors, such as extremely high costs for recycling or hauling, that are attributable to some site-specific condition; and
 - (3) Whether burning in place would be of lower risk or harm to the environment than either removal or reduction in place (chipping, composting, or decay) in such areas as drainages, steep slopes, beaches, and other inaccessible points.

- (g) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the Board on account of the variance, no renewal thereof shall be granted unless, following a public hearing on the complaint on due notice, the Board finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least 60 days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the Board shall give public notice of such application in accordance with rules and regulations of the Board.
- (h) A variance or renewal shall not be a right of the applicant or holder thereof but shall be granted at the discretion of the Board. However, any applicant adversely affected by the denial or the terms and conditions of the granting of an application for a variance or renewal of a variance by the Board may obtain judicial review thereof only under the provisions of Chapter 34.05 RCW as now or hereafter amended.
- (i) Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of RCW 70.94.710 through 70.94.730 to any person or his or her property.
- (j) Variances approved under this section shall not be included in orders or permits provided for in RCW 70.94.161 until such time as the variance has been accepted by the United States Environmental Protection Agency as part of an approved State Implementation Plan.

SECTION 4.03 FILING FEES Adopted 12/13/72 (172)

Revised 12/09/82 (531), 02/13/86 (597), 01/12/89 (639), Revised/Re-numbered 08/08/91 (702), 01/14/93 (746), Revised 12/09/99 (905)

A fee of \$1,000.00 shall be paid to the Agency upon the filing of any variance application. The applicant shall also pay all costs associated with any legal notice upon being invoiced by the Agency.

ARTICLE 5: REGISTRATION

SECTION 5.03 APPLICABILITY OF REGISTRATION PROGRAM

Adopted 03/13/68 (12), Revised 11/10/71 (135), 10/10/73 (214), 03/13/80 (461), 12/09/82 (530), 12/13/84 (567), 02/13/86 (597), 08/09/90 (670), 08/12/93 (760), 02/10/94 (777), 09/12/96 (838), 12/12/96 (842), 09/10/98 (870), 07/08/99 (886), 06/24/04 (1030), 10/26/06 (1083)

- (a) The requirements of this article shall apply only to:
- (1) Sources subject to a federal emission standard under:
 - (A) 40 CFR Part 60 (except Subparts B, S, BB, and AAA, and Subpart III pertaining to owners and operators of emergency stationary compression ignition internal combustion engines);
 - (B) 40 CFR Part 61 (except Subparts B, H, I, K, Q, R, T, W, and the provisions of Subpart M pertaining to asbestos on roadways, asbestos demolition and renovation activities, and asbestos spraying);
 - (C) 40 CFR Part 62; or
 - (D) 40 CFR Part 63 (except Subpart LL and the provisions of Subparts S and MM pertaining to kraft and sulfite pulp mills, and Subpart ZZZZ pertaining to emergency and limited-use stationary reciprocating internal combustion engines);
 - (2) Sources with a federally enforceable emission limitation established in order to avoid operating permit program applicability under Article 7 of this regulation;
 - (3) Sources with annual emissions:
 - (A) Greater than or equal to 2.50 tons of any single hazardous air pollutant (HAP);
 - (B) Greater than or equal to 6.25 tons of total hazardous air pollutants (HAP); or
 - (C) Greater than or equal to 25.0 tons of carbon monoxide (CO), nitrogen oxides (NO_x), particulate matter (PM_{2.5} or PM₁₀), sulfur oxides (SO_x), or volatile organic compounds (VOC);
 - (4) Sources subject to the following sections of Regulation I, II, or III:
 - (A) Refuse burning equipment subject to Section 9.05 of Regulation I (including crematories);
 - (B) Fuel burning equipment or refuse burning equipment burning oil that exceeds any limit in Section 9.08 of Regulation I and sources marketing oil to such sources;
 - (C) Fuel burning equipment subject to Section 9.09 of Regulation I with a rated heat input greater than or equal to 1 MMBtu/hr of any fuel other than natural gas, propane, butane, or distillate oil, or greater than or equal to 10 MMBtu/hr of any fuel;

- (D) Sources with spray-coating operations subject to Section 9.16 of Regulation I;
 - (E) Petroleum refineries subject to Section 2.03 of Regulation II;
 - (F) Gasoline loading terminals subject to Section 2.05 of Regulation II;
 - (G) Gasoline dispensing facilities subject to Section 2.07 of Regulation II;
 - (H) Volatile organic compound storage tanks subject to Section 3.02 of Regulation II;
 - (I) Can and paper coating facilities subject to Section 3.03 of Regulation II;
 - (J) Motor vehicle and mobile equipment coating operations subject to Section 3.04 of Regulation II;
 - (K) Flexographic and rotogravure printing facilities subject to Section 3.05 of Regulation II;
 - (L) Polyester, vinylester, gelcoat, and resin operations subject to Section 3.08 of Regulation II;
 - (M) Aerospace component coating operations subject to Section 3.09 of Regulation II;
 - (N) Dry cleaners subject to Section 3.03 of Regulation III; or
 - (O) Ethylene oxide sterilizers subject to Section 3.07 of Regulation III;
- (5) Sources with any of the following gas or odor control equipment having a rated capacity of greater than or equal to 200 cfm (≥ 4 " diameter inlet):
- (A) Activated carbon adsorption;
 - (B) Afterburner;
 - (C) Barometric condenser;
 - (D) Biofilter;
 - (E) Catalytic afterburner;
 - (F) Catalytic oxidizer;
 - (G) Chemical oxidation;
 - (H) Condenser;
 - (I) Dry sorbent injection;
 - (J) Flaring;
 - (K) Non-selective catalytic reduction;
 - (L) Refrigerated condenser;
 - (M) Selective catalytic reduction; or
 - (N) Wet scrubber;

- (6) Sources with any of the following particulate control equipment having a rated capacity of greater than or equal to 2,000 cfm (≥ 10 " diameter inlet):
- (A) Baghouse;
 - (B) Demister;
 - (C) Electrostatic precipitator;
 - (D) HEPA (high efficiency particulate air) filter;
 - (E) HVAF (high velocity air filter);
 - (F) Mat or panel filter;
 - (G) Mist eliminator;
 - (H) Multiple cyclones;
 - (I) Rotoclone;
 - (J) Screen;
 - (K) Venturi scrubber;
 - (L) Water curtain; or
 - (M) Wet electrostatic precipitator;
- (7) Sources with a single cyclone having a rated capacity of greater than or equal to 20,000 cfm (≥ 27 " diameter inlet);
- (8) Sources with any of the following equipment:
- (A) Asphalt batch plants;
 - (B) Burn-off ovens;
 - (C) Coffee roasters;
 - (D) Commercial composting with raw materials from off-site;
 - (E) Commercial smokehouses with odor control equipment;
 - (F) Concrete batch plants (ready-mix concrete);
 - (G) Galvanizing;
 - (H) Iron or steel foundries;
 - (I) Microchip or printed circuit board manufacturing;
 - (J) Rendering plants;
 - (K) Rock crushers or concrete crushers;
 - (L) Sewage treatment plants with odor control equipment;
 - (M) Shipyards;
 - (N) Steel mills; or
 - (O) Wood preserving lines or retorts; and

- (9) Sources with equipment (or control equipment) that has been determined by the Control Officer to warrant registration through review of a Notice of Construction application under Section 6.03(a) or a Notification under Section 6.03(b) of this regulation, due to the amount and nature of air contaminants produced, or the potential to contribute to air pollution, and with special reference to effects on health, economic and social factors, and physical effects on property.
- (b) The requirements of this article shall not apply to:
- (1) Motor vehicles;
 - (2) Nonroad engines or nonroad vehicles as defined in Section 216 of the federal Clean Air Act;
 - (3) Sources that require an operating permit under Article 7 of this regulation;
 - (4) Solid fuel burning devices subject to Article 13 of this regulation; or
 - (5) Any source, including any listed in Sections 5.03(a)(4) through 5.03(a)(9) of this regulation, that has been determined through review by the Control Officer not to warrant registration, due to the amount and nature of air contaminants produced or the potential to contribute to air pollution, and with special reference to effects on health, economic and social factors, and physical effects on property.
- (c) It shall be unlawful for any person to cause or allow the operation of any source subject to registration under this section, unless it meets all the requirements of Article 5 of this regulation.
- (d) An exemption from new source review under Article 6 of this regulation shall not be construed as an exemption from registration under this article. In addition, an exemption from registration under this article shall not be construed as an exemption from any other provision of Regulation I, II, or III.

SECTION 5.05 REGISTRATION REQUIREMENTS Adopted 03/13/68 (12)

Revised 11/10/71 (135), 12/09/82 (530), 06/09/88 (621), 10/12/89 (653), 08/09/90 (670), 09/12/96 (838), 09/11/97 (856), 09/10/98 (870)
05/22/03 (994), 06/24/04 (1030)

- (a) The owner or operator of a source requiring registration under Section 5.03 of this regulation shall make reports containing information as required by the Agency concerning location, size, and height of contaminant outlets, processes employed, nature and quantity of the air contaminant emission, and such other information as is relevant to air pollution and available or reasonably capable of being assembled. The owner or operator shall be responsible for obtaining the proper forms from the Agency, notifying the Agency of its existence (including changes in its ownership or name), and for the accuracy, completeness, and timely submittal of all registration reports and fees.
- (b) The owner or operator of a source requiring registration under Section 5.03 of this regulation shall submit a report by June 30th of each year, listing the

emissions of those air contaminants emitted during the previous calendar year that equaled or exceeded:

- (1) 2.50 tons of any single hazardous air pollutant (HAP);
 - (2) 6.25 tons of total hazardous air pollutants (HAP); or
 - (3) 25.0 tons of carbon monoxide (CO), nitrogen oxides (NO_x), particulate matter (PM_{2.5} or PM₁₀), sulfur oxides (SO_x), or volatile organic compounds (VOC).
- (c) The owner or operator of a registered source shall develop and implement an operation and maintenance plan to ensure continuous compliance with Regulations I, II, and III. A copy of the plan shall be filed with the Control Officer upon request. The plan shall reflect good industrial practice and shall include, but not be limited to, the following:
- (1) Periodic inspection of all equipment and control equipment;
 - (2) Monitoring and recording of equipment and control equipment performance;
 - (3) Prompt repair of any defective equipment or control equipment;
 - (4) Procedures for start up, shut down, and normal operation;
 - (5) The control measures to be employed to ensure compliance with Section 9.15 of this regulation; and
 - (6) A record of all actions required by the plan.

The plan shall be reviewed by the source owner or operator at least annually and updated to reflect any changes in good industrial practice.

SECTION 5.07 ANNUAL REGISTRATION FEES Adopted 12/09/82 (530)

Revised 01/10/85 (573), 10/12/89 (653), 08/09/90 (670), 12/12/91 (713), 07/08/93 (756), 09/08/94 (798), 09/14/95 (821), 09/12/96 (839), 09/11/97 (856), 09/10/98 (871), 09/09/99 (894), 07/13/00 (925), 06/14/01 (946), 10/11/01 (957), 05/23/02 (968), 05/22/03 (994), 06/24/04 (1030), 06/23/05 (1044), 06/22/06 (1067)

- (a) The Agency shall assess annual fees as set forth in Section 5.07(c) of this regulation for services provided in administering the registration program. Fees received under the registration program shall not exceed the cost of administering the program, which shall be defined as initial registration and annual or other periodic reports from the source owner providing information directly related to air pollution registration, on-site inspections necessary to verify compliance with registration requirements, data storage and retrieval systems necessary for support of the registration program, emission inventory reports and emission reduction credits computed from information provided by sources pursuant to registration program requirements, staff review, including engineering analysis for accuracy and currentness, of information provided by sources pursuant to registration program requirements, clerical and other office support provided in direct furtherance of the registration program, and administrative support provided in directly carrying out the registration program. Payment of these fees by the owner or operator of a source shall maintain its active registration status (even if it is not actively operating).

- (b) Upon assessment by the Agency, registration fees are due and payable within 45 days of the date of the invoice. They shall be deemed delinquent if not fully paid within 45 days of the date of the invoice and shall be subject to an additional delinquent fee equal to 25% of the original fee, not to exceed \$1,000. Persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than 90 days late with such payments may be subject to a penalty equal to 3 times the amount of the original fee owed (in addition to other penalties provided by chapter 70.94 RCW).
- (c) Except as specified in Section 5.07(d) and (e) of this regulation, registered sources shall be assessed a fee of \$935, plus the following fees:
 - (1) Sources subject to a federal emission standard as specified in Section 5.03(a)(1) of this regulation shall be assessed \$1,750 per subpart of 40 CFR Parts 60-63;
 - (2) Sources subject to a federally enforceable emission limitation as specified in Section 5.03(a)(2) or meeting the emission thresholds specified in Section 5.03(a)(3) of this regulation shall be assessed \$2,000;
 - (3) Sources subject to the emission reporting requirements under Section 5.05(b) of this regulation shall be assessed \$23 for each ton of CO and \$46 for each ton of NO_x, PM₁₀, SO_x, HAP, and VOC, based on the emissions reported during the previous calendar year;
 - (4) Sources with more than one coffee roaster installed on-site that are approved under a Notice of Construction Order of Approval shall be assessed \$2,000; and
 - (5) Sources of commercial composting with raw materials from off-site shall be assessed \$5,000.
- (d) Gasoline dispensing facilities shall be assessed the following fees based on their gasoline throughput during the previous calendar year (as certified at the time of payment):
 - (1) More than 6,000,000 gallons \$3,300;
 - (2) 3,600,001 to 6,000,000 gallons \$1,650;
 - (3) 1,200,001 to 3,600,000 gallons \$1,100;
 - (4) 840,001 to 1,200,000 gallons \$550;
 - (5) 200,001 to 840,000 gallons \$275.
- (e) The following registered sources shall be assessed an annual registration fee of \$110, provided that they meet no other criteria listed in Section 5.03(a) of this regulation:
 - (1) Sources with spray-coating operations subject to Section 9.16 of this regulation that use no more than 4,000 gallons per year of total coatings and solvents;

- (2) Gasoline dispensing facilities subject to Section 2.07 of Regulation II with gasoline annual throughput during the previous calendar year (as certified at the time of payment) of no more than 200,000 gallons;
- (3) Motor vehicle and mobile equipment coating operations subject to Section 3.04 of Regulation II;
- (4) Unvented dry cleaners subject to Section 3.03 of Regulation III; and
- (5) Batch coffee roasters subject to notification under Section 6.03(b)(11) of this regulation.

ARTICLE 6: NEW SOURCE REVIEW

SECTION 6.01 COMPONENTS OF NEW SOURCE REVIEW PROGRAM

Adopted 03/25/04 (1024)
Revised 11/17/05 (1056), 03/23/06 (1063)

- (a) In addition to the provisions of this regulation, the Agency adopts by reference and enforces the following provisions of the new source review program established by the Washington State Department of Ecology:

WAC 173-400-030	Definitions. (effective 2/10/05)
WAC 173-400-081	Startup and shutdown. (effective 9/20/93)
WAC 173-400-110 (3) and (6)-(10)	New source review (NSR). (effective 2/10/05)
WAC 173-400-112	Requirements for new sources in nonattainment areas. (effective 2/10/05)
WAC 173-400-113	Requirements for new sources in attainment or unclassifiable areas. (effective 2/10/05)
WAC 173-400-114	Requirements for replacement or substantial alteration of emission control technology at an existing stationary source. (effective 9/15/01)
WAC 173-400-117	Special protection requirements for federal Class I areas. (effective 2/10/05)
WAC 173-400-171	Public involvement. – excluding references to chapter 173-460 WAC (effective 2/10/05)
WAC 173-400-200	Creditable stack height and dispersion techniques. (effective 2/10/05)
WAC 173-400-560	General order of approval. (effective 2/10/05)
WAC 173-400-700	Review of major stationary sources of air pollution. (effective 2/10/05)
WAC 173-400-710	Definitions. (effective 2/10/05)
WAC 173-400-720	Prevention of significant deterioration (PSD). (effective 2/10/05)
WAC 173-400-730	Prevention of significant deterioration application processing procedures. (effective 2/10/05)
WAC 173-400-740	PSD permitting public involvement requirements. (effective 2/10/05)
WAC 173-400-750	Revisions to PSD permits. (effective 2/10/05)

WAC 173-460-020	Definitions. (effective 2/14/94)
WAC 173-460-040 (3)-(10)	New source review. (effective 2/14/94)
WAC 173-460-050	Requirement to quantify emissions. (effective 2/14/94)
WAC 173-460-060	Control technology requirements. (effective 8/21/98)
WAC 173-460-070	Ambient impact requirement. (effective 9/18/91)
WAC 173-460-080	Demonstrating ambient impact compliance. (effective 2/14/94)
WAC 173-460-090	Second tier analysis. (effective 2/14/94)

- (b) The Washington State Department of Ecology is the permitting agency for the Prevention of Significant Deterioration (PSD) program under WAC 173-400-700 through WAC 173-400-750 (as delegated by agreement with the US Environmental Protection Agency, Region 10), and for primary aluminum smelters, kraft pulp mills, and sulfite pulp mills.
- (c) The Washington State Department of Health is the permitting agency for radionuclides under chapter 246-247 WAC.
- (d) The Energy Facility Site Evaluation Council (EFSEC) is the permitting agency for large natural gas and oil pipelines, electric power plants above 350 megawatts, new oil refineries or large expansions of existing facilities, and underground natural gas storage fields under chapter 463-78 WAC.

SECTION 6.03 NOTICE OF CONSTRUCTION Adopted 03/13/68 (12)
Revised 11/10/71 (135), 11/21/74 (285), 03/13/80 (461), 12/09/82 (531), 02/13/86 (597), 11/19/92 (738), 09/12/96 (838), 03/11/99 (880), 07/08/99 (886), 07/12/01 (944), 03/25/04 (1024), 03/23/06 (1064), 10/26/06 (1083)

- (a) It shall be unlawful for any person to cause or allow the establishment of a new source, or the replacement or substantial alteration of control equipment installed on an existing source, unless a "Notice of Construction application" has been filed and an "Order of Approval" has been issued by the Agency. The exemptions in Sections 6.03(b) and (c) of this regulation shall not apply to:
 - (1) Any project that qualifies as construction, reconstruction, or modification of an affected facility within the meaning of 40 CFR Part 60 (New Source Performance Standards), except for Subpart AAA (New Residential Wood Heaters), Subpart BB (Kraft Pulp Mills), Subpart S (Primary Aluminum Reduction Plants), and Subpart IIII pertaining to owners and operators of emergency stationary compression ignition internal combustion engines; and for relocation of affected facilities under Subpart I (Hot Mix Asphalt Facilities) and Subpart OOO (Nonmetallic Mineral Processing Plants) for which an Order of Approval has been previously issued by the Agency;

- (2) Any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (National Emission Standards for Hazardous Air Pollutants), except for Subpart B (Radon from Underground Uranium Mines), Subpart H (Emissions of Radionuclides other than Radon from Department of Energy Facilities), Subpart I (Radionuclides from Federal Facilities other than Nuclear Regulatory Commission Licensees and not covered by Subpart H), Subpart K (Radionuclides from Elemental Phosphorus Plants), Subpart Q (Radon from Department of Energy Facilities), Subpart R (Radon from Phosphogypsum Stacks), Subpart T (Radon from Disposal of Uranium Mill Tailings), Subpart W (Radon from Operating Mill Tailings), and for demolition and renovation projects subject to Subpart M (Asbestos);
- (3) Any project that qualifies as a new source as defined under 40 CFR 63.2 (National Emission Standards for Hazardous Air Pollutants for Source Categories), except for the provisions of Subpart M (Dry Cleaning Facilities) pertaining to area source perchloroethylene dry cleaners, Subpart LL (Primary Aluminum Reduction Plants), and the provisions of Subpart S (Pulp and Paper Industry) and Subpart MM (Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semicemical Pulp Mills) pertaining to kraft and sulfite pulp mills, and Subpart ZZZZ pertaining to emergency and limited-use stationary reciprocating internal combustion engines;
- (4) Any new major stationary source or major modification as defined under WAC 173-400-030; and
- (5) Any stationary source previously exempted from review that is cited by the Agency for causing air pollution under Section 9.11 of this regulation.

- (b) **Notifications.** A Notice of Construction application and Order of Approval are not required for the following new sources, provided that a complete notification is filed with the Agency prior to initial startup:

Liquid Storage and Transfer

- (1) Storage tanks used exclusively for:
 - (A) Gasoline and having a rated capacity of 1,001-19,999 gallons, PROVIDED THAT they are installed in accordance with the current California Air Resources Board Executive Orders;
 - (B) Organic liquids with a true vapor pressure of 2.2-4.0 psia and having a rated capacity of 20,000-39,999 gallons; or
 - (C) Organic liquids with a true vapor pressure of 0.5-0.75 psia and having a rated capacity \geq 40,000 gallons.
- (2) Loading and unloading equipment used exclusively for the storage tanks exempted above, including gasoline dispensers at gasoline stations.

Relocation of Portable Batch Plants

- (3) Relocation of the following portable facilities: asphalt batch plants, nonmetallic mineral processing plants, rock (or concrete) crushers, and concrete batch plants for which an Order of Approval has been previously issued by the Agency. *All the conditions in the previously issued Order of Approval remain in effect.*

Dry Cleaning

- (4) Unvented, dry-to-dry, dry-cleaning equipment that is equipped with refrigerated condensers to recover the cleaning solvent.

Printing

- (5) Non-heatset, web offset presses and wholesale, sheet-fed offset presses (lithographic or letterpress) using exclusively soy-based or kerosene-like oil-based inks, fountain solutions with $\leq 6\%$ VOC by volume or $\leq 8.5\%$ if refrigerated to $< 60^{\circ}\text{F}$, and cleaning solvents with a vapor pressure $\leq 25\text{mm Hg}$ or a VOC content $\leq 30\%$ by volume.

Water Treatment

- (6) Industrial and commercial wastewater evaporators (except flame impingement) used exclusively for wastewater generated on-site that meets all discharge limits for disposal into the local municipal sewer system (including metals, cyanide, fats/oils/grease, pH, flammable or explosive materials, organic compounds, hydrogen sulfide, solids, and food waste). *A letter from the local sewer district documenting compliance is required in order to use this exemption.*

Sanding Equipment

- (7) Sanding equipment controlled by a fabric filter with an airflow of 2,000-5,000 cfm and an air-to-cloth ratio of $< 3.5:1$ (for reverse-air or manual cleaning) or $< 12:1$ (for pulse-jet cleaning).

Ventilation and Control Equipment

- (8) Vacuum-cleaning systems used exclusively for industrial, commercial, or residential housekeeping purposes controlled by a fabric filter with an airflow of 2,000-5,000 cfm and an air-to-cloth ratio of $< 3.5:1$ (for mechanical or manual cleaning) or $< 12:1$ (for pulse-jet cleaning).
- (9) Replacement of existing paint spray booths. *All the conditions in the previously issued Order of Approval remain in effect.*

Miscellaneous

- (10) Any source not otherwise exempt under Section 6.03(c) of this regulation that has been determined through review of a Notice of Construction application by the Control Officer not to warrant an Order of Approval because it has a de minimis impact on air quality and does not pose a threat to human health or the environment.

Coffee Roasters

- (11) Batch coffee roasters with a maximum rated capacity of 10 lbs per batch or less.

- (c) **Exemptions.** A Notice of Construction application and Order of Approval are not required for the following new sources, provided that sufficient records are kept to document the exemption:

Combustion

- (1) Fuel-burning equipment (except when combusting pollutants generated by a non-exempt source) having a rated capacity:
 - (A) <10 million Btu per hour heat input burning exclusively distillate fuel oil, natural gas, propane, butane (or any combination thereof);
 - (B) <0.5 million Btu per hour heat output burning waste-derived fuel (including fuel oil not meeting the specifications in Section 9.08 of this regulation); or
 - (C) <1 million Btu per hour heat input burning any other fuel.
- (2) All stationary gas turbines with a rated heat input <10 million Btu per hour.
- (3) Stationary internal combustion engines having a rated capacity:
 - (A) <50 horsepower output;
 - (B) Used solely for instructional purposes at research, teaching, or educational facilities; or
 - (C) Portable or standby units operated <500 hours per year, PROVIDED THAT they are not operated at a facility with a power supply contract that offers a lower rate in exchange for the power supplier's ability to curtail energy consumption with prior notice.
- (4) Relocation of portable, stationary internal combustion engines or gas turbines for which an Order of Approval has been previously issued by the Agency.
- (5) All nonroad compression ignition engines subject to 40 CFR Part 89.

Metallurgy

- (6) Crucible furnaces, pot furnaces, or induction furnaces with a capacity $\leq 1,000$ pounds, PROVIDED THAT no sweating or distilling is conducted, and PROVIDED THAT only precious metals, or an alloy containing $>50\%$ aluminum, magnesium, tin, zinc, or copper is melted.
- (7) Crucible furnaces or pot furnaces with a capacity ≤ 450 cubic inches of any molten metal.
- (8) Ladles used in pouring molten metals.
- (9) Foundry sand-mold forming equipment.
- (10) Shell core and shell-mold manufacturing machines.
- (11) Molds used for the casting of metals.
- (12) Die casting machines with a rated capacity $\leq 1,000$ pounds that are not used for copper alloys.
- (13) Equipment used for heating metals immediately prior to forging, pressing, rolling, or drawing, if any combustion equipment is also exempt.
- (14) Forming equipment used exclusively for forging, rolling, or drawing of metals, if any combustion equipment is also exempt.
- (15) Heat treatment equipment used exclusively for metals, if any combustion equipment is also exempt.
- (16) Equipment used exclusively for case hardening, carburizing, cyaniding, nitriding, carbonitriding, siliconizing, or diffusion treating of metals, if any combustion equipment is also exempt.
- (17) Atmosphere generators used in connection with metal heat-treating processes.
- (18) Sintering equipment used exclusively for metals other than lead, PROVIDED THAT no coke or limestone is used, if any combustion equipment is also exempt.
- (19) Welding equipment and oxygen/gaseous fuel cutting equipment.
- (20) Soldering or brazing, or equipment, including brazing ovens.
- (21) Equipment used exclusively for surface preparation, passivation, deoxidation, and/or stripping that meets all of the following tank content criteria:
 - (A) ≤ 50 grams of VOC per liter;
 - (B) No acids other than boric, formic, acetic, phosphoric, sulfuric, or $\leq 12\%$ hydrochloric; and

- (C) May contain alkaline oxidizing agents, hydrogen peroxide, salt solutions, sodium hydroxide, and water in any concentration.

Associated rinse tanks and waste storage tanks used exclusively to store the solutions drained from this equipment are also exempt. (This exemption does not include anodizing, hard anodizing, chemical milling, circuit board etching using ammonia-based etchant, electrocleaning, or the stripping of chromium, except sulfuric acid and/or boric acid anodizing with a total bath concentration of $\leq 20\%$ by weight and using $\leq 10,000$ amp-hours per day, or phosphoric acid anodizing with a bath concentration of $\leq 15\%$ by weight of phosphoric acid and using $\leq 20,000$ amp-hours per day.)

- (22) Equipment used exclusively for electrolytic plating (except the use of chromic and/or hydrochloric acid) or electrolytic stripping (except the use of chromic, hydrochloric, nitric, or sulfuric acid) of brass, bronze, copper, iron, tin, zinc, precious metals, and associated rinse tanks and waste storage tanks used exclusively to store the solutions drained from this equipment. Also, equipment used to electrolytically recover metals from spent or pretreated plating solutions that qualify for this exemption.

Ceramics and Glass

- (23) Kilns used for firing ceramic-ware or artwork, if any combustion equipment is also exempt.
- (24) Porcelain enameling furnaces, porcelain enameling drying ovens, vitreous enameling furnaces, or vitreous enameling drying ovens, if any combustion equipment is also exempt.
- (25) Hand glass melting furnaces, electric furnaces, and pot furnaces with a capacity $\leq 1,000$ pounds of glass.
- (26) Heat-treatment equipment used exclusively for glass, if any combustion equipment is also exempt.
- (27) Sintering equipment used exclusively for glass PROVIDED THAT no coke or limestone is used, if any combustion equipment is also exempt.

Plastics and Rubber and Composites

- (28) Equipment used exclusively for conveying and storing plastic pellets.
- (29) Extrusion equipment used exclusively for extruding rubber or plastics where no organic plasticizer is present, or for pelletizing polystyrene foam scrap.

- (30) Equipment used for extrusion, compression molding, and injection molding of plastics, PROVIDED THAT the VOC content of all mold release products or lubricants is $\leq 1\%$ by weight.
- (31) Injection or blow-molding equipment for rubber or plastics, PROVIDED THAT no blowing agent other than compressed air, water, or carbon dioxide is used.
- (32) Presses or molds used for curing, post-curing, or forming composite products and plastic products, PROVIDED THAT the blowing agent contains no VOC or chlorinated compounds.
- (33) Presses or molds used for curing or forming rubber products and composite rubber products with a ram diameter ≤ 26 inches, PROVIDED THAT it is operated at $\leq 400^\circ\text{F}$.
- (34) Ovens used exclusively for the curing or forming of plastics or composite products, where no foam-forming or expanding process is involved, if any combustion equipment is also exempt.
- (35) Ovens used exclusively for the curing of vinyl plastisols by the closed-mold curing process, if any combustion equipment is also exempt.
- (36) Equipment used exclusively for softening or annealing plastics, if any combustion equipment is also exempt.
- (37) Hot wire cutting of expanded polystyrene foam and woven polyester film.
- (38) Mixers, roll mills, and calenders for rubber or plastics where no material in powder form is added and no organic solvents, diluents, or thinners are used.

Material Working and Handling

- (39) Equipment used for mechanical buffing (except tire buffers), polishing, carving, cutting, drilling, grinding, machining, planing, pressing, routing, sawing, stamping, or turning of wood, ceramic artwork, ceramic precision parts, leather, metals, plastics, rubber, fiberboard, masonry, glass, silicon, semiconductor wafers, carbon, graphite, or composites. This exemption also applies to laser cutting, drilling, and machining of metals.
- (40) Hand-held sanding equipment.
- (41) Sanding equipment controlled by a fabric filter with an airflow of $< 2,000$ cfm.
- (42) Equipment used exclusively for shredding of wood (e.g., tub grinders, hammermills, hoppers), or for extruding, pressing, handling, or storage of wood chips, sawdust, or wood shavings.

- (43) Paper shredding and associated conveying systems and baling equipment.
- (44) Hammermills used exclusively to process aluminum and/or tin cans.
- (45) Tumblers used for the cleaning or deburring of metal products without abrasive blasting.

Abrasive Blasting

- (46) Portable abrasive blasting equipment used at a temporary location to clean bridges, water towers, buildings, or similar structures, PROVIDED THAT any blasting with sand (or silica) is performed with $\geq 66\%$ by volume water.
- (47) Portable vacuum blasting equipment using steel shot and vented to a fabric filter.
- (48) Hydroblasting equipment using exclusively water as the abrasive.
- (49) Abrasive blasting cabinets vented to a fabric filter, PROVIDED THAT the total internal volume of the cabinet is ≤ 100 cubic feet.
- (50) Shot peening operations, PROVIDED THAT no surface material is removed.

Cleaning

- (51) Solvent cleaning:
 - (A) Non-refillable, hand-held aerosol spray cans of solvent; or
 - (B) Closed-loop solvent recovery systems with refrigerated or water-cooled condensers used for recovery of waste solvent generated on-site.
- (52) Steam-cleaning equipment.
- (53) Unheated liquid solvent tanks used for cleaning or drying parts:
 - (A) With a solvent capacity ≤ 10 gallons and containing $\leq 5\%$ by weight perchloroethylene, methylene chloride, carbon tetrachloride, chloroform, 1,1,1-trichloroethane, trichloroethylene, or any combination thereof;
 - (B) Using a solvent with a true vapor pressure ≤ 0.6 psi containing $\leq 5\%$ by weight perchloroethylene, methylene chloride, carbon tetrachloride, chloroform, 1,1,1-trichloroethane, trichloroethylene, or any combination thereof;
 - (C) With a remote reservoir and using a solvent containing $\leq 5\%$ by weight perchloroethylene, methylene chloride, carbon tetrachloride, chloroform, 1,1,1-trichloroethane, trichloroethylene, or any combination thereof; or

(D) With a solvent capacity ≤ 2 gallons.

(54) Hand-wipe cleaning.

Coating, Resin, and Adhesive Application

(55) Powder-coating equipment.

(56) Portable coating equipment and pavement stripers used exclusively for the field application of architectural coatings and industrial maintenance coatings to stationary structures and their appurtenances or to pavements and curbs.

(57) High-volume low-pressure (HVLV) spray-coating equipment having a cup capacity ≤ 8 fluid ounces, PROVIDED THAT it is not used to coat >9 square feet per day and is not used to coat motor vehicles or aerospace components.

(58) Airbrushes having a cup capacity ≤ 2 fluid ounces and an airflow of 0.5-2.0 cfm.

(59) Hand-held aerosol spray cans having a capacity of ≤ 1 quart of coating.

(60) Spray-coating equipment used exclusively for application of automotive undercoating materials with a flash point $> 100^\circ\text{F}$.

(61) Ovens associated with an exempt coating operation, if any combustion equipment is also exempt.

(62) Ovens associated with a coating operation that are used exclusively to accelerate evaporation, if any combustion equipment is also exempt. (Note: The coating operation is not necessarily exempt.)

(63) Radiation-curing equipment using ultraviolet or electron beam energy to initiate a chemical reaction forming a polymer network in a coating.

(64) Hand lay, brush, and roll-up resins equipment and operations.

(65) Equipment used exclusively for melting or applying of waxes or natural and synthetic resins.

(66) Hot-melt adhesive equipment.

(67) Any adhesive application equipment that exclusively uses materials containing $< 1\%$ VOC by weight and $< 0.1\%$ HAP.

(68) Equipment used exclusively for bonding of linings to brake shoes, where no organic solvents are used.

Printing

- (69) Retail, sheet-fed, non-heatset offset presses (lithographic or letter-press).
- (70) Presses using exclusively UV-curable inks.
- (71) Presses using exclusively plastisols.
- (72) Presses using exclusively water-based inks (<1.5 lbs VOC per gallon, excluding water, or <10% VOC by volume) and cleaning solvents without VOC.
- (73) Presses used exclusively for making proofs.
- (74) Electrostatic, ink jet, laser jet, and thermal printing equipment.
- (75) Ovens used exclusively for exempt printing presses, if any combustion equipment is also exempt.

Photography

- (76) Photographic process equipment by which an image is reproduced upon material sensitized by radiant energy, excluding equipment using perchloroethylene.

Liquid Storage and Transfer

- (77) Storage tanks permanently attached to a motor vehicle.
- (78) Storage tanks used exclusively for:
 - (A) Liquefied gases, including any tanks designed to operate in excess of 29.7 psia without emissions;
 - (B) Asphalt at a facility other than an asphalt roofing plant, asphalt processing plant, or petroleum refinery;
 - (C) *Any* liquids (other than asphalt) that also have a rated capacity $\leq 1,000$ gallons;
 - (D) Organic liquids (other than gasoline or asphalt) that also have a rated capacity $< 20,000$ gallons;
 - (E) Organic liquids (other than asphalt) with a true vapor pressure < 2.2 psia (e.g., ASTM spec. fuel oils and lubricating oils) that also have a rated capacity $< 40,000$ gallons;
 - (F) Organic liquids (other than asphalt) with a true vapor pressure < 0.5 psia that also have a rated capacity $\geq 40,000$ gallons;
 - (G) Sulfuric acid or phosphoric acid with an acid strength $\leq 99\%$ by weight;
 - (H) Nitric acid with an acid strength $\leq 70\%$ by weight;

- (I) Hydrochloric acid or hydrofluoric acid tanks with an acid strength $\leq 30\%$ by weight;
 - (J) Aqueous solutions of sodium hydroxide, sodium hypochlorite, or salts, PROVIDED THAT the surface of the solution contains $\leq 1\%$ VOC by weight;
 - (K) Liquid soaps, liquid detergents, vegetable oils, fatty acids, fatty esters, fatty alcohols, waxes, and wax emulsions;
 - (L) Tallow or edible animal fats intended for human consumption and of sufficient quality to be certifiable for United States markets;
 - (M) Water emulsion intermediates and products, including latex, with a VOC content $\leq 5\%$ by volume or a VOC composite partial pressure of ≤ 0.1 psi at 68°F ; or
 - (N) Wine, beer, or other alcoholic beverages.
- (79) Loading and unloading equipment used exclusively for the storage tanks exempted above.
 - (80) Loading and unloading equipment used exclusively for transferring liquids or compressed gases into containers having a rated capacity < 60 gallons, except equipment transferring $> 1,000$ gallons per day of liquid with a true vapor pressure > 0.5 psia.
 - (81) Equipment used exclusively for the packaging of sodium hypochlorite-based household cleaning or pool products.

Mixing

- (82) Mixing equipment, PROVIDED THAT no material in powder form is added and the mixture contains $< 1\%$ VOC by weight.
- (83) Equipment used exclusively for the mixing and blending of materials at ambient temperature to make water-based adhesives.
- (84) Equipment used exclusively for the manufacture of water emulsions of waxes, greases, or oils.
- (85) Equipment used exclusively for the mixing and packaging of lubricants or greases.
- (86) Equipment used exclusively for manufacturing soap or detergent bars, including mixing tanks, roll mills, pladders, cutters, wrappers, where no heating, drying, or chemical reactions occur.
- (87) Equipment used exclusively to mill or grind coatings and molding compounds in a paste form, PROVIDED THAT the solution contains $< 1\%$ VOC by weight.
- (88) Batch mixers with a rated working capacity ≤ 55 gallons.

- (89) Batch mixers used exclusively for paints, varnishes, lacquers, enamels, shellacs, printing inks, or sealers, PROVIDED THAT the mixer is equipped with a lid that contacts $\geq 90\%$ of the rim.

Water Treatment

- (90) Oil/water separators, except those at petroleum refineries.
- (91) Water cooling towers and water cooling ponds not used for evaporative cooling of process water, or not used for evaporative cooling of water from barometric jets or from barometric condensers, and in which no chromium compounds are contained.
- (92) Equipment used exclusively to generate ozone and associated ozone destruction equipment for the treatment of cooling tower water or for water treatment processes.
- (93) Municipal sewer systems, including wastewater treatment plants and lagoons, PROVIDED THAT they do not use anaerobic digesters or chlorine sterilization. This exemption does not include sewage sludge incinerators.
- (94) Soil and groundwater remediation projects involving < 15 pounds per year of benzene or vinyl chloride, < 500 pounds per year of perchloroethylene, and $< 1,000$ pounds per year of toxic air contaminants.

Landfills and Composting

- (95) Passive aeration of soil, PROVIDED THAT the soil is not being used as a cover material at a landfill.
- (96) Closed landfills that do not have an operating, active landfill gas collection system.
- (97) Non-commercial composting.

Agriculture, Food, and Drugs

- (98) Equipment used in agricultural operations, in the growing of crops, or the raising of fowl or animals.
- (99) Insecticide, pesticide, or fertilizer spray equipment.
- (100) Equipment used in retail establishments to dry, cook, fry, bake, or grill food for human consumption, including charbroilers, smokehouses, barbecue units, deep fat fryers, cocoa and nut roasters, but not including coffee roasters.

- (101) Cooking kettles (other than deep frying equipment) and confection cookers where all the product in the kettle is edible and intended for human consumption.
- (102) Bakery ovens with a total production of yeast leavened bread products <10,000 pounds per operating day, if any combustion equipment is also exempt.
- (103) Equipment used to dry, mill, grind, blend, or package <1,000 tons per year of dry food products such as seeds, grains, corn, meal, flour, sugar, and starch.
- (104) Equipment used to convey, transfer, clean, or separate <1,000 tons per year of dry food products or waste from food production operations.
- (105) Storage equipment or facilities containing dry food products that are not vented to the outside atmosphere, or that handle <1,000 tons per year.
- (106) Equipment used exclusively to grind, blend, package, or store tea, cocoa, spices, coffee, flavor, fragrance extraction, dried flowers, or spices, PROVIDED THAT no organic solvents are used in the process.
- (107) Equipment used to convey or process materials in bakeries or used to produce noodles, macaroni, pasta, food mixes, and drink mixes where products are edible and intended for human consumption, PROVIDED THAT no organic solvents are used in the process. This exemption does not include storage bins located outside buildings.
- (108) Brewing operations at facilities producing <3 million gallons per year of beer.
- (109) Fermentation tanks for wine (excluding tanks used for the commercial production of yeast for sale).
- (110) Equipment used exclusively for tableting, or coating vitamins, herbs, or dietary supplements, PROVIDED THAT no organic solvents are used in the process.
- (111) Equipment used exclusively for tableting or packaging pharmaceuticals and cosmetics, or coating pharmaceutical tablets, PROVIDED THAT no organic solvents are used.

Quarries, Nonmetallic Mineral Processing Plants, and Concrete and Asphalt Batch Plants

- (112) Portable sand and gravel plants and crushed stone plants with a cumulative rated capacity of all initial crushers \leq 150 tons per hour.
- (113) Fixed sand and gravel plants and crushed stone plants with a cumulative rated capacity of all initial crushers \leq 25 tons per hour.

- (114) Common clay plants and pumice plants with a cumulative rated capacity of all initial crushers of ≤ 10 tons per hour.
- (115) Mixers and other ancillary equipment at concrete batch plants (or aggregate product production facilities) with a rated capacity < 15 cubic yards per hour.
- (116) Concrete mixers with a rated working capacity of ≤ 1 cubic yard.
- (117) Drilling or blasting (explosives detonation).
- (118) Asphaltic concrete crushing/recycling equipment with a throughput $< 5,000$ tons per year.

Construction

- (119) Asphalt paving application.
- (120) Asphalt (hot-tar) roofing application.
- (121) Building construction or demolition, except that notification of demolitions is required under Section 4.03 of Regulation III.

Ventilation and Control Equipment

- (122) Comfort air-conditioning systems, or ventilating systems (forced or natural draft), PROVIDED THAT they are not designed or used to control air contaminants generated by, or released from, sources subject to Notice of Construction.
- (123) Refrigeration units, except those used as, or in conjunction with, air pollution control equipment.
- (124) Refrigerant recovery and/or recycling units, excluding refrigerant reclaiming facilities.
- (125) Emergency ventilation systems used exclusively to contain and control emissions resulting from the failure of a compressed gas storage system.
- (126) Emergency ventilation systems used exclusively to scrub ammonia from refrigeration systems during process upsets or equipment breakdowns.
- (127) Negative air machines equipped with HEPA filters used to control asbestos emissions from demolition/renovation activities.
- (128) Portable control equipment used exclusively for storage tank degassing.
- (129) Vacuum-cleaning systems used exclusively for industrial, commercial, or residential housekeeping purposes controlled by a fabric filter with an airflow $< 2,000$ cfm.

- (130) Control equipment used exclusively for sources that are exempt from Notice of Construction under Section 6.03(c) of this regulation.
- (131) Routine maintenance, repair, or similar parts replacement of control equipment.

Testing and Research

- (132) Laboratory testing and quality assurance/control testing equipment used exclusively for chemical and physical analysis, teaching, or experimentation, used specifically in achieving the purpose of the analysis, test, or teaching activity. Non-production bench scale research equipment is also included.

Miscellaneous

- (133) Single-family and duplex dwellings.
 - (134) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment, if any combustion equipment used to power such equipment is also exempt.
 - (135) Equipment, including dryers, used exclusively for dyeing, stripping, or bleaching of textiles where no organic solvents, diluents, or thinners are used, if any combustion equipment used to power such equipment is also exempt.
 - (136) Chemical vapor sterilization equipment where no ethylene oxide is used, and with a chamber volume of ≤ 2 cubic feet used by healthcare facilities.
 - (137) Ozone generators that produce < 1 pound per day of ozone.
 - (138) Fire extinguishing equipment.
- (d) Each Notice of Construction application and Section 6.03(b) notification shall be submitted on forms provided by the Agency and shall be accompanied by the appropriate fee as required by Section 6.04 of this regulation. Notice of Construction applications shall also include any additional information required to demonstrate that the requirements of this Article are met. Notice of Construction applications shall also include an environmental checklist or other documents demonstrating compliance with the State Environmental Policy Act.

SECTION 6.04 NOTICE OF CONSTRUCTION FEES Adopted 10/10/73 (214)
 Revised 12/12/73 (218), 11/21/74 (285), 03/13/80 (461), 02/13/86 (597), 06/09/88 (621), 05/11/89 (643), 11/14/91 (710), 09/10/92 (734),
 11/19/92 (738), 07/08/93 (756), 10/28/93 (765), 09/12/96 (839), 12/12/96 (842), 09/11/97 (856), 03/11/99 (880), 07/12/01 (944),
 05/23/02 (969), 05/22/03 (992), 06/23/05 (1045), 03/23/06 (1064)

(a) A Notice of Construction application is incomplete until the Agency has received fees as shown below:

Filing Fee (for each application, to be paid prior to any review)	\$750
Spray-Coating Booth (commercially manufactured).....	\$250
Coffee Roaster (less than 40 pounds/batch, with thermal oxidizer)	\$500
Hot Mix Asphalt Batch Plant	\$7,000
Soil Thermal Desorption Unit.....	\$5,000
Electric Generation Project: (combined heat input capacity)	
10 - 100 million Btu/hr (2.9 - 29 MW)	\$5,000
101 - 250 million Btu/hr (29 - 73 MW)	\$10,000
>250 million Btu/hr (>73 MW).....	\$25,000
Composting Facility	\$10,000
Commercial Solid Waste Handling Facility	\$10,000
Landfill Gas System.....	\$2,500
Refuse Burning Equipment: (rated charging capacity)	
≤12 tons per day.....	\$5,000
>12 tons and ≤250 tons per day	\$20,000
>250 tons per day.....	\$50,000
Other (not listed above) for each Piece of Equipment and Control Equipment	\$500

Additional Charges (for each application):

SEPA Threshold Determination	\$500
(DNS, under Regulation I, Section 2.04)	
SEPA Threshold Determination	\$1,500
(MDNS, under Regulation I, Section 2.07)	
Public Notice.....	\$500
(under WAC 173-400-171)	(+ publication costs)
NSPS or NESHAP	\$1,000
(per subpart of 40 CFR Parts 60, 61, and 63)	
Refined Dispersion Modeling Analysis.....	\$500
(under Regulation III, Section 2.07(c)(2))	

Major Source, Major Modification, or Emission Increases Greater than Prevention of Significant Deterioration (PSD) Thresholds (under WAC 173-400-112 or WAC 173-400-113)	\$5,000 (+ Ecology fees)
An Agency request for an Inapplicability Determination for PSD Program Requiring Written Applicability Determination from Ecology.....	\$5,000
Construction or Reconstruction of a Major Source of Hazardous Air Pollutants (see 40 CFR 63.2)	\$2,500
Tier II Air Toxics Review..... (under WAC 173-460-090)	\$5,000 (+ Ecology fees)
Opacity/Grain Loading Correlation	\$5,000

(b) A notification under Section 6.03(b)(1) through Section 6.03(b)(9) and 6.03(b)(11) of this regulation is incomplete until the Agency has received a fee of \$100. An application processed as a Notice of Construction exemption under Section 6.03(b)(10) requires payment of the Notice of Construction filing fee only. An application for coverage under a general order of approval issued by this Agency is not subject to the fees in Section 6.04(a) and instead requires payment of a \$500 fee, which is due prior to any review of the application.

(c) The Control Officer is authorized to enter into a written cost-reimbursement agreement with an applicant as provided in RCW 70.94.085.

(d) Additional Fee for Service – Second Incomplete Application

Upon receipt of a second incomplete Notice of Construction application from the same applicant for the same project, the Control Officer may cease review of the application and provide written notification of that determination. The Control Officer may resume review of the application if, within 30 days of the date of the notification describing the Agency's receipt of the second incomplete Notice of Construction application, the applicant has deposited \$1,000 with the Agency, and executed a fee-for-service agreement with the Agency that allows the Agency to recover the reasonable direct and indirect costs that arise from processing the Notice of Construction application, including the requirements of other relevant laws such as the Washington State Environmental Policy Act (SEPA).

The agreement shall require that the applicant assume full responsibility for paying the Agency for the costs incurred under the fee-for-service agreement. The Agency shall credit the \$1,000 deposit made by the applicant towards the costs required by a fee-for-service agreement. The fee-for-service agreement may require the applicant to make progress payments during the application review period. The \$1,000 deposit referred to in this section and the costs provided for in a fee-for-service agreement are in addition to the fees required in Section 6.04(a).

If the applicant has not made a \$1,000 deposit and executed such a fee-for-service agreement within 30 days of the date of the notification from the Agency describing its receipt of a second incomplete application, the Agency may issue an Intent to Disapprove an Application.

The \$1,000 deposit required under this section is not refundable. In addition, any payments made to the Agency under a fee-for-service agreement are not refundable.

(e) Additional Fee – Revised Application

The Control Officer may assess an additional fee for processing a Notice of Construction application when a subsequent significantly revised application is submitted after the original application was determined to be complete and prior to the Agency issuing an Order of Approval or Intent to Disapprove an Application regarding the original application. The revision fee shall be the amount of the fee that was charged for the original Notice of Construction application, including the filing fee. The resulting total fee is the fee for the original Notice of Construction application plus the revision fee.

SECTION 6.09 NOTICE OF COMPLETION Adopted 03/13/68 (12)
Revised 02/13/86 (597), 11/19/92 (738), 04/14/94 (784), 07/12/01 (944), 03/25/04 (1024)

Within 30 days of completion of the installation or modification of a stationary source subject to the provisions of Article 6 of this regulation, the owner or operator or applicant shall file a Notice of Completion with the Agency. Each Notice of Completion shall be submitted on a form provided by the Agency, and shall specify the date upon which operation of the stationary source has commenced or will commence.

SECTION 6.10 WORK DONE WITHOUT AN APPROVAL Adopted 11/12/87 (616)
Revised 07/08/93 (756), 09/11/97 (856), 07/12/01 (944)

Where work for which an Order of Approval is required is commenced or performed prior to making application and receiving approval, the Control Officer may conduct an investigation as part of the Notice of Construction review. In such a case, an investigation fee, in addition to the fees of Section 6.04, shall be assessed in an amount equal to 3 times the fees of Section 6.04. Payment of the fees does not relieve any person from the requirement to comply with the regulations nor from any penalties for failure to comply.

SECTION 6.11 NEW SOURCE PERFORMANCE STANDARDS
Adopted 08/12/93 (760)
Revised 09/08/94 (798), 09/14/95 (821), 09/12/96 (839), 09/11/97 (856), 09/10/98 (870), 09/09/99 (895), 07/13/00 (925), 09/13/01 (954), 09/26/02 (978)

It shall be unlawful for any person to cause or allow the operation of any source in violation of any provision of Part 60, Title 40, of the Code of Federal Regulations (excluding Subparts B, S, BB, and AAA) in effect as of the federal regulation reference date listed in Section 3.25 of this regulation herein incorporated by reference.

ARTICLE 7: OPERATING PERMITS

SECTION 7.01 PURPOSE Adopted 10/28/93 (766)

The purpose of this article is to provide for a comprehensive operating permit program consistent with the requirements of Title V of the federal Clean Air Act Amendments of 1990 and its implementing regulation 40 CFR Part 70, and RCW 70.94.161 and its implementing regulation Chapter 173-401 of the Washington Administrative Code.

SECTION 7.03 APPLICABILITY Adopted 10/28/93 (766), Revised 09/09/99 (895), 07/22/04 (1031)

The provisions of this article apply to all Chapter 401 sources subject to the requirements of chapter 173-401 WAC.

SECTION 7.05 COMPLIANCE Adopted 10/28/93 (766)

It shall be unlawful for any person to cause or allow the operation of any source subject to the requirements of WAC 173-401 without complying with the provisions of WAC 173-401 and any permit issued under its authority.

SECTION 7.07 OPERATING PERMIT FEES Adopted 10/28/93 (766) Revised 09/08/94 (798), 09/14/95 (821), 09/12/96 (839), 09/11/97 (856), 09/10/98 (871), 09/09/99 (894), 07/13/00 (925), 06/14/01 (946), 10/11/01 (957), 05/23/02 (970), 05/22/03 (995), 07/22/04 (1031)

- (a) The Agency shall assess annual operating permit fees as set forth in Section 7.07(b) below to cover the cost of administering the operating permit program.
- (b) Upon assessment by the Agency, the following annual operating permit fees are due and payable within 45 days of the invoice date. They shall be deemed delinquent if not fully paid within 90 days of the date of the invoice and will be subject to an additional delinquent fee equal to 25% of the original fee, not to exceed \$5,000. In addition, persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than 90 days late with such payments may be subject to a penalty equal to 3 times the amount of the original fee owed (in addition to other penalties provided by chapter 70.94 RCW).
 - (1) Sources in the following North American Industry Classification System (NAICS) codes (*North American Industry Classification System Manual*, U.S. Executive Office of the President, Office of Management and Budget, 1997), or sources subsequently determined by the control officer to be assigned to either Section 7.07(b)(1)(i) or 7.07(b)(1)(ii) shall be subject to the following facility fees:
 - (i) Operating permit sources with the following NAICS codes:

NAICS	NAICS Description	Fee
221112	Fossil Fuel Electric Power Generation	
324110	Petroleum Refineries	
327213	Glass Container Manufacturing	
327310	Cement Manufacturing	
331111	Iron and Steel Mills	
336411	Aircraft Manufacturing	
336413	Other Aircraft Parts and Auxiliary Equipment Manufacturing	
928110	National Security	
.....		\$40,000

(ii) Operating permit sources with the following NAICS codes:

NAICS	NAICS Description	Fee
311119	Other Animal Food Manufacturing	
311812	Commercial Bakeries	
321113	Sawmills	
321912	Cut Stock, Resawing Lumber, and Planing	
321918	Other Millwork (including Flooring)	
321999	All Other Miscellaneous Wood Product Manufacturing	
322222	Coated and Laminated Paper Manufacturing	
326140	Polystyrene Foam Product Manufacturing	
327121	Brick and Structural Clay Tile Manufacturing	
332996	Fabricated Pipe and Pipe Fitting Manufacturing	
.....		\$10,000

(iii) Operating permit sources with NAICS codes
other than listed above\$20,000

- (2) Additional emission rate fees shall be paid in addition to the annual operating permit fees of Section 7.07(b)(1):
 \$23 for each ton of CO reported in the previous calendar year, and
 \$46 for each ton of NO_x reported in the previous calendar year, and
 \$46 for each ton of PM₁₀ reported in the previous calendar year, and
 \$46 for each ton of SO_x reported in the previous calendar year, and
 \$46 for each ton of VOC reported in the previous calendar year, and
 \$46 for each ton of HAP reported in the previous calendar year.
- (c) In addition to the fees under Sections 7.07(b)(1) and (b)(2) above, the Agency shall, on a source-by-source basis, assess the following fees:
- (1) \$250 for administrative permit amendments [WAC 173-401-720], and
 - (2) for minor permit modifications [WAC 173-401-725(2) and (3)], a fee equal to 10% of the annual operating permit fee, not to exceed \$5,000, and
 - (3) for the original issuance [WAC 173-401-700], significant modification [WAC 173-401-725(4)], reopening for cause [WAC 173-401-730], or renewal [WAC 173-401-710] of an operating permit, a fee equal to 20% of the annual operating permit fee, not to exceed \$10,000, and
 - (4) to cover the costs of public involvement under WAC 173-401-800, and
 - (5) to cover the costs incurred by the Washington State Department of Health in enforcing 40 CFR Part 61, Subpart I and chapter 246-247 WAC.
- (d) In addition to the fees described under Sections 7.07(b) and (c) above, the Agency shall collect and transfer to the Washington State Department of Ecology a surcharge established by the Department of Ecology under chapter 173-401 WAC to cover the Department of Ecology's program development and oversight costs.
- (e) Continued payment to the Agency of the annual operating permit fee maintains the operating permit and the status of the source as an operating facility.

SECTION 7.09 GENERAL REPORTING REQUIREMENTS FOR OPERATING PERMITS

Adopted 09/12/96 (839)
 Revised 09/11/97 (856), 09/10/98 (870)

- (a) **Emission Reporting.** An emission report shall be required from each owner or operator of an operating permit source, listing those air contaminants

emitted during the previous calendar year that equal or exceed the following (tons/year):

carbon monoxide (CO) emissions.....	25
facility combined total of all toxic air contaminant (TAC) emissions	6
any single toxic air contaminant (TAC) emissions.....	2
nitrogen oxide (NOx) emissions	25
particulate matter (PM ₁₀) emissions	25
particulate matter (PM _{2.5}) emissions.....	25
sulfur oxide (SOx) emissions.....	25
volatile organic compounds (VOC) emissions	25

Annual emission rates shall be reported to the nearest whole tons per year for only those air contaminants that equal or exceed the thresholds above. The owner or operator of a source requiring a Title V operating permit under this Article shall maintain records of information necessary to document any reported emissions or to demonstrate that the emissions were less than the above amounts.

(b) **Operation and Maintenance Plan.** Owners or operators of air contaminant sources subject to Regulation I Article 7 shall develop and implement an operation and maintenance plan to assure continuous compliance with Regulations I, II, and III. A copy of the plan shall be filed with the Control Officer upon request. The plan shall reflect good industrial practice and shall include, but not be limited to, the following:

- (1) Periodic inspection of all equipment and control equipment;
- (2) Monitoring and recording of equipment and control equipment performance;
- (3) Prompt repair of any defective equipment or control equipment;
- (4) Procedures for start up, shut down, and normal operation;
- (5) The control measures to be employed to assure compliance with Section 9.15 of Regulation I; and
- (6) A record of all actions required by the plan.

The plan shall be reviewed by the source owner or operator at least annually and updated to reflect any changes in good industrial practice.

ARTICLE 8: OUTDOOR BURNING

SECTION 8.04 GENERAL CONDITIONS FOR OUTDOOR BURNING

Adopted 03/18/76 (361)

Revised 01/12/89 (639), 04/09/92 (724), 04/14/94 (783), 10/08/98 (873), 03/11/99 (881), 11/09/00 (933)

- (a) The provisions of Chapter 173-425 WAC (Outdoor Burning) are herein incorporated by reference. It shall be unlawful for any person to cause or allow any outdoor burning unless the burning is in compliance with Chapter 173-425 WAC.
- (b) The provisions of Sections 9.05 and 9.15 of Regulation I shall not apply to outdoor burning.
- (c) Nothing contained in Article 8 shall be construed to allow outdoor burning in those areas in which outdoor burning is prohibited by laws, ordinances, or regulations of the state or any city, county, or fire district.
- (d) Nothing contained in Article 8 shall relieve the applicant from obtaining permits required by any state or local fire protection agency or from compliance with the Uniform Fire Code.

SECTION 8.05 AGRICULTURAL BURNING Adopted 02/08/96 (825)

Revised 11/09/00 (933)

- (a) **Applicability.** This section applies to burning related to agricultural operations. The definitions and requirements contained in Chapter 173-430 WAC also apply to this section.
- (b) **General Requirements.** Agricultural burning will be permitted if the following requirements are met:
 - (1) The natural vegetation being burned is generated from the property of the commercial agricultural operation; and
 - (2) Burning is necessary for crop propagation or rotation, disease or pest control; and
 - (3) Burning is a best management practice as established by the Agricultural Burning Practices and Research Task Force (established in RCW 70.94.650 as referenced in WAC 173-430-050); or the burning practice is approved in writing by the Washington State Cooperative Extension Service or the Washington State Department of Agriculture; or the burning is conducted by a governmental entity with specific agricultural burning needs, such as irrigation districts, drainage districts, and weed control boards.
- (c) **Permit Applications.** Agricultural burning permits shall be approved by the Agency prior to burning. The permit application shall be submitted on forms provided by the Agency and shall include:
 - (1) A copy of the applicant's most recent year's Schedule F (as filed with the Internal Revenue Service);

- (2) A written review by the local fire district or fire marshal indicating their endorsement that local requirements have been met; and
- (3) A non-refundable permit fee:
 - (A) For burning up to 10 acres (or equivalent), the fee is \$25.00 (base fee);
 - (B) For burning over 10 acres, the fee is \$25.00 plus \$2.50 for each additional acre.

(d) **Permit Action and Content.**

- (1) The Agency will act on a complete application within 7 days of receipt.
- (2) All agricultural burning permits shall contain conditions that are necessary to minimize emissions.
- (3) All permits shall expire 12 months from date of issuance.

- (e) **Permit Denial.** No permit shall be issued if the Agency determines that the proposed burning will cause a nuisance. All denials shall become final within 15 days unless the applicant petitions the Control Officer for reconsideration, stating the reasons for reconsideration. The Control Officer shall then consider the petition and shall within 30 days issue a permit or notify the applicant in writing of the reason(s) for denial. (For more information on the appeal process, see Section 3.17 of this regulation.)

SECTION 8.06 OUTDOOR BURNING OZONE CONTINGENCY MEASURE

Adopted 12/19/02 (976)

- (a) **Applicability.** This section shall apply to open burning within King, Kitsap, Pierce, and Snohomish Counties if, in consultation with the Washington State Department of Ecology and the Agency, the U.S. Environmental Protection Agency makes a written finding that:
- (1) A quality-assured violation of the national ambient air quality standard for ozone has occurred, and
 - (2) Prevention of future violations can be reasonably addressed through the implementation of this section.

The Agency shall provide public notice of this written finding no later than November 1. This section shall take effect on July 1 following the public notice of such a written finding.

- (b) It shall be unlawful for any person to cause or allow outdoor burning within King, Kitsap, Pierce, or Snohomish Counties during the months of July through August.

SECTION 8.07 FIRE EXTINGUISHER TRAINING Adopted 02/08/96 (825)

Revised 03/13/97 (849), 09/09/99 (895)

- (a) **Applicability.** This section applies to small, short-duration fires for teaching the proper use of hand-held fire extinguishers.

- (b) **General Requirements.** Hand-held fire extinguisher training may be conducted provided the following requirements are met:
- (1) Training shall not occur during any stage of an air pollution episode or period of impaired air quality;
 - (2) Flammable or combustible materials used during the fire extinguisher training shall be limited to:
 - (A) Less than 2 gallons of clean kerosene or diesel fuel oil per training exercise, provided that gasoline or gasoline mixed with diesel or kerosene may be used only by local fire departments, fire marshals, or fire districts;
 - (B) As much gaseous fuel (propane or natural gas) as required for the training exercise; or
 - (C) Less than 0.5 cubic yards of clean, solid combustible materials per training exercise. Examples of solid combustible materials are seasoned wood, untreated scrap lumber, and unused computer paper.
 - (3) All training must be conducted by local fire officials or a qualified instructor. Instructor qualifications and a training plan must be available to the Agency upon request;
 - (4) Prior to the training, the person(s) conducting the exercise must notify the local fire department, fire marshal, or fire district and must meet all applicable local ordinances and permitting requirements; and
 - (5) Person(s) conducting hand-held fire extinguisher training shall be responsible for responding to citizen inquiries and resolving citizen complaints caused by the training activity.

SECTION 8.08 FIRE DEPARTMENT TRAINING EXERCISES

Adopted 02/08/96 (825)
Revised 09/09/99 (895)

- (a) **Applicability.** This section applies to structural fires set by fire departments, fire marshals, vocational schools, or fire districts for training fire fighters under realistic conditions.
- (b) **General Requirements.** Fire departments, fire marshals, vocational schools, or fire districts may conduct structural fire training provided all of the following requirements are met:
- (1) The fire training shall not occur during any stage of an air pollution episode or period of impaired air quality;
 - (2) Before the training begins, the fire department, fire marshal, vocational school, or fire district conducting the training fire must have submitted to the Agency a copy of the asbestos survey for the structure, and a completed Agency Asbestos/Demolition Notification form indicating all asbestos has been removed from the structure prior to training;

- (3) The fire department, fire marshal, vocational school, or fire district conducting the fire training must have a fire-training plan available to the Agency upon request, and the purpose of the structural fire must be to train fire fighters;
- (4) Composition roofing, asphalt roofing shingles, asphalt siding materials, miscellaneous debris from inside the structure, carpet, linoleum, and floor tile must not be burned. These materials must be lawfully removed from the structure and disposed of in a lawful manner prior to the training exercise;
- (5) Nuisance complaints or citizen inquiries relating to any training fire shall be resolved by the fire departments, fire marshals, vocational schools, or fire districts conducting the training fire; and
- (6) The fire departments, fire marshals, vocational schools, or fire districts conducting the training fire shall obtain any permits, licenses, or other approvals required by any entity for such training fires. All permits, licenses, and approvals must be kept on-site and available for inspection.

SECTION 8.09 DESCRIPTION OF THE KING COUNTY NO-BURN AREA

Adopted 11/09/00 (933)

As provided by WAC 173-425-040(5), residential burning and land-clearing burning are prohibited in the following areas of King County:

- (a) The King County Urban Growth Area; and
- (b) The former carbon monoxide (CO) non-attainment area (Seattle/Tacoma/Everett urban area as defined by the Washington State Department of Transportation, 1983 version, urban area maps).

SECTION 8.10 DESCRIPTION OF THE PIERCE COUNTY NO-BURN AREA

Adopted 11/09/00 (933)

As provided by WAC 173-425-040(5), residential burning and land-clearing burning are prohibited in the following areas of Pierce County:

- (a) The Pierce County Urban Growth Area; and
- (b) The former carbon monoxide (CO) non-attainment area (Seattle/Tacoma/Everett urban area as defined by the Washington State Department of Transportation, 1983 version, urban area maps).

SECTION 8.11 DESCRIPTION OF THE SNOHOMISH COUNTY NO-BURN AREA

Adopted 11/09/00 (933)

As provided by WAC 173-425-040(5), residential burning and land-clearing burning are prohibited in the following areas of Snohomish County:

- (a) The Snohomish County Urban Growth Area; and

- (b) The former carbon monoxide (CO) non-attainment area (Seattle/Tacoma/Everett urban area as defined by the Washington State Department of Transportation, 1983 version, urban area maps).

SECTION 8.12 DESCRIPTION OF THE KITSAP COUNTY NO-BURN AREA

Adopted 11/09/00 (933)
Revised 10/24/02 (981)

- (a) As provided by WAC 173-425-040(5), reasonable alternatives to burning exist in the areas described below and residential burning and land-clearing burning are prohibited in these areas.
- (1) The Kingston Urban Growth Area as shown in Figure 8-1;
 - (2) The City of Bainbridge Island;
 - (3) The Silverdale, Bremerton, Port Orchard area as follows and as shown in Figure 8-2:
 - Beginning at the intersection of the line dividing T25N, R2E Sections 18 and 19, and the center line of Port Orchard Bay;
 - head directly west to Waaga Way;
 - continue west on Waaga Way to Nels Nelson Road NW;
 - head north following the Silverdale Urban Growth Area boundary to Island Lake;
 - head east following the Silverdale Urban Growth Area boundary to Central Valley Road;
 - follow Central Valley Road north to NE Anna Road and then west to Hillcrest Street NW;
 - continue north on Central Valley Road to the intersection of T25, R1E, Sections 2 and 3, and T26N, R1E, Sections 34 and 35;
 - head directly west to NW Mountain View Road;
 - follow NW Mountain View Road to the point where it intersects with the Bangor Naval Reservation boundary;
 - follow the Bangor Naval Reservation boundary heading south and west to the point where the Northern Pacific railroad track leaves the Bangor Naval Reservation property at its southern boundary;
 - head south along the Northern Pacific railroad track to NW Westgate Road;
 - follow NW Westgate Road west to Olympic View Road NW;
 - head south on Olympic View Road NW to Anderson Hill Road;
 - head west on Anderson Hill Road to Willamette Meridian Road NW;
 - head south along the line dividing Township 25 North, Range 1 West and Township 25 North, Range 1 East to the Wesley Harris Naval Reservation;

- head east and south along the perimeter of the Wesley Harris Naval Reservation to a line bisecting T25N, R1E, Section 31;
- follow the line bisecting T25N, R1E, Section 31 east to the Northern Pacific railroad track;
- head south along the Northern Pacific Railroad track to a point where the track crosses the City of Bremerton Urban Growth Area boundary at T24N, R1E between Sections 19 and 30;
- head west along the southwestern portion of the Bremerton city limits for approximately 14 miles to a point 0.2 mile east of the intersection of T23N, R1W, Sections 2, 3, 10, and 11;
- head south to State Highway 3;
- head southwest on State Highway 3 to the Mason County line;
- head east to the line separating T23N, R1W, Sections 22 and 23;
- head north to the intersection of T23N, R1W, Sections 14, 15, 22, and 23;
- head east 1.33 miles;
- head north to State Highway 3;
- head west 0.42 mile;
- head north to the Bremerton city limits;
- head northeast along the Bremerton city limits for approximately 3.6 miles to the intersection of T24N, R1E, Sections 31 & 32 and T23N, R1E, Sections 5 & 6;
- head east another 0.33 mile;
- head south to the intersection of Feigley Road SW and SW Old Clifton Road;
- head east along SW Old Clifton Road to the boundary of the McCormick Woods Urban Growth Area;
- include the entire Urban Growth Area of McCormick Woods;
- at the point where the northeastern boundary of McCormick Woods Urban Growth Area intersects SW Old Clifton Road, follow SW Old Clifton Road northeast to the Port Orchard city boundary;
- start by heading east and follow the Port Orchard city boundary to the point where it intersects with State Highway 16 south of Sedgwick Road;
- head southeast along State Highway 16 to Bethel Road SE;
- head north along Bethel Road SE to the Port Orchard Urban Growth Area boundary;
- start by heading east and follow the Port Orchard Urban Growth Area boundary to the intersection of Sedgwick Road and Phillips Road;

- continue east along SE Sedgwick Road to Longlake Road SE;
- head north along Longlake Road SE to the line between T24N and T23N;
- head west to the intersection of T24N, R2E Sections 31 & 32 and T23N, R2E Sections 5 & 6;
- head north to SE Mile Hill Drive;
- head east along SE Mile Hill Drive to Bullman Road SE;
- head north 0.5 mile along and past Bullman Rd SE;
- head west to SE Horstman Road and continue to Baby Doll Road SE;
- head north along Baby Doll Road SE to E Collins Road;
- head west on E Collins Road and then continue west to E Lindstrom Hill Road and then to Sinclair Inlet shoreline;
- head directly north to the center line of Port Orchard Bay;
- follow the center line of Port Orchard Bay in a northerly direction to where it intersects the line dividing T25N, R2E Sections 18 and 19; and

(4) The Poulsbo area as follows and as shown in Figure 8-3:

(A) The Poulsbo Urban Growth Area (UGA);

(B) The following areas adjacent to the Poulsbo UGA:

(i) Southeast of Poulsbo UGA and east of State Highway 305:

- from the intersection of State Highway 305 and Noll Road NE, proceed north on Noll Road to the Poulsbo UGA;
- follow the UGA west, north, and west again until it intersects State Highway 305;
- head south on State Highway 305 to the intersection of State Highway 305 and Noll Road NE.

(ii) Northeast of Poulsbo UGA:

That area between the Poulsbo UGA and a line from the northwest corner of the Poulsbo UGA nearest to the southwestern terminus of Gala Way NE, west to the Poulsbo UGA.

(iii) North of Poulsbo UGA along State Highway 307:

- from the intersection of Little Valley Road and State Highway 307, head south to the Poulsbo UGA;
- follow the UGA west and then north until it intersects State Highway 307;
- head south on State Highway 307 northeast to the intersection of State Highway 307 and Little Valley Road.

(iv) North of Poulsbo UGA and east of State Highway 3:

- from the intersection of T26N, R1E, Sections 2, 3, 10, and 11 (which is the northeast corner of the Poulsbo UGA nearest the northern terminus of Viking Avenue NE) head east 0.25 mile;
- head south 0.05 mile to the Poulsbo UGA;
- head west and then north along the Poulsbo UGA to the intersection of T26N, R1E, Sections 2, 3, 10, and 11.

(v) West of Poulsbo UGA:

- from the intersection of Rhododendron Lane NW and Finn Hill Road, head south to NW Rude Road;
- head east 0.25 mile on Rude Road;
- head south 0.25 mile;
- head east to the Poulsbo UGA;
- head north and northwest along the Poulsbo UGA to the intersection of Finn Hill Road and Rhododendron Lane.

(vi) South of Poulsbo UGA and east of State Highway 3:

- from the intersection of the Poulsbo UGA and Viking Way NW, south of NW Norfinn Lane, head south 0.10 mile on Viking Way NW;
- head east to Liberty Bay;
- follow the shore of Liberty Bay north to the Poulsbo UGA;
- follow the Poulsbo UGA west to Viking Way NW.

(b) As provided by WAC 173-425-040(5), reasonable alternatives to burning exist in the area described below and land-clearing burning is prohibited in this area.

The Port Orchard area as follows and as shown in Figure 8-2:

- Begin at the intersection of Baby Doll Road SE and SE Mile Hill Drive;
- head east on Mile Hill Drive to Long Lake Road SE;
- head south on Long Lake Road SE to the line between T24N and T23N;
- head west to the intersection of T24N, R2E Sections 31 & 32 and T23N, R2E Sections 5 & 6;
- head north to SE Mile Hill Drive.

Figure 8-1

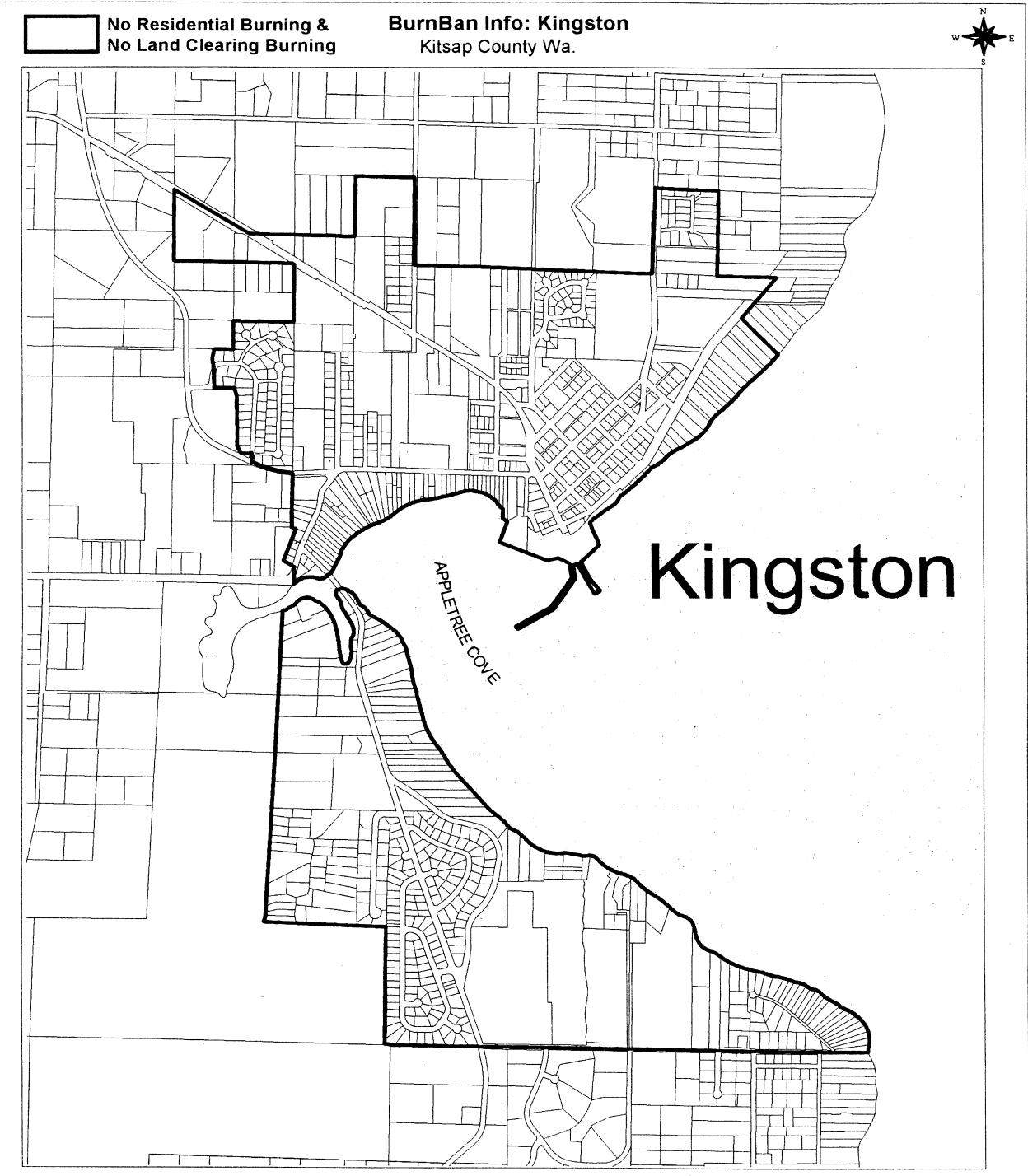


Figure 8-2

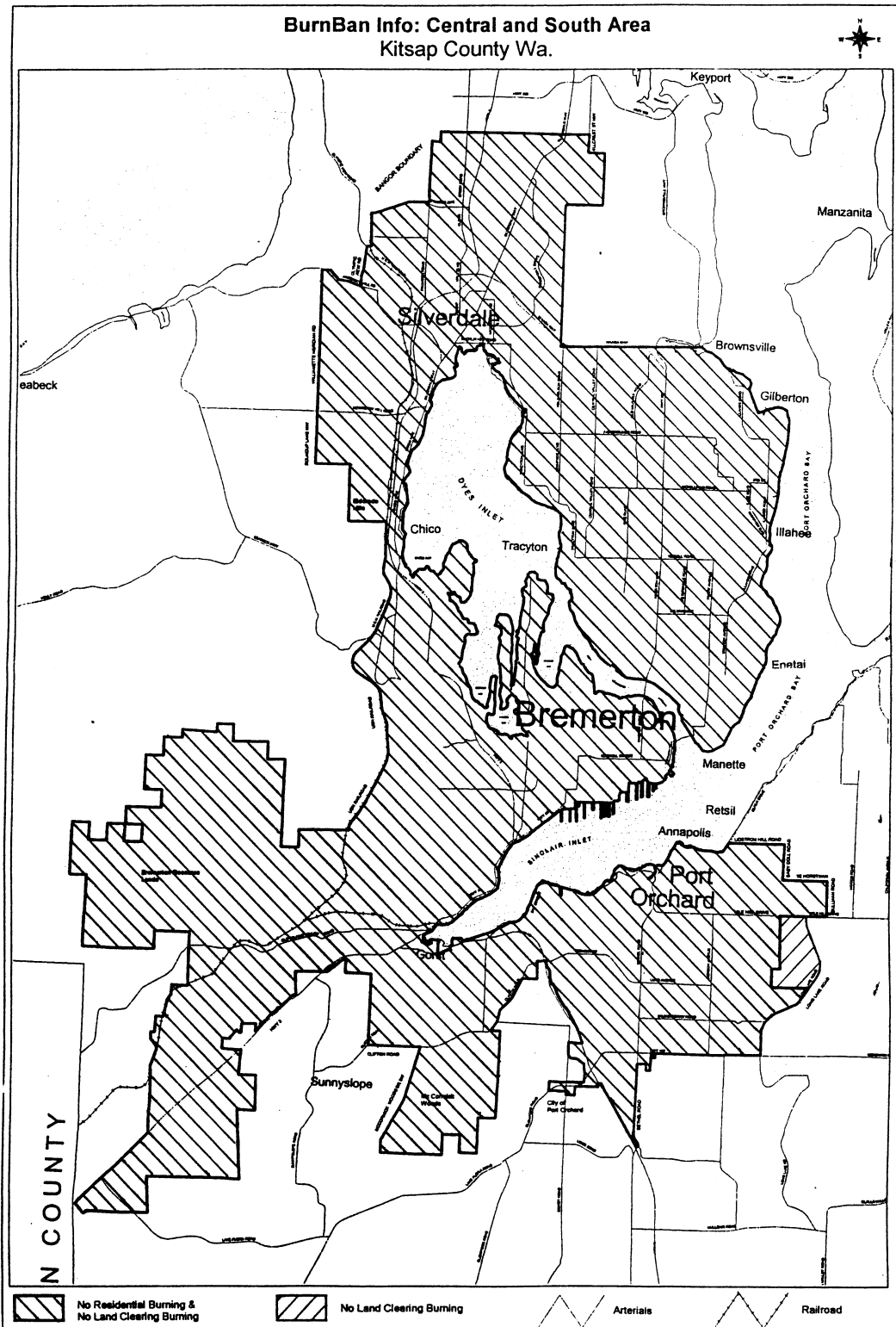
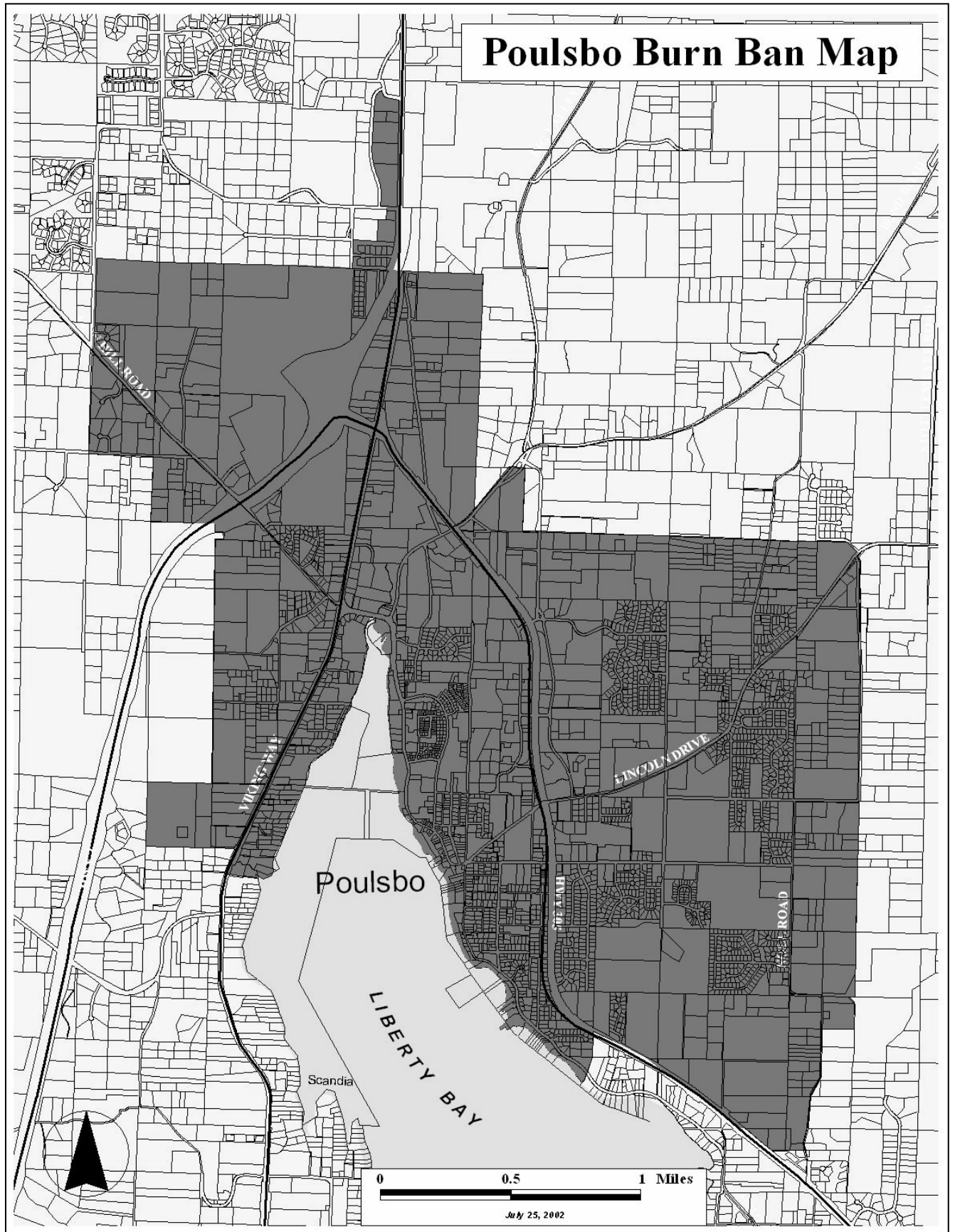


Figure 8-3



ARTICLE 9: EMISSION STANDARDS

SECTION 9.03 EMISSION OF AIR CONTAMINANT: VISUAL STANDARD

Adopted 03/13/68 (12)

Revised 07/08/70 (126), 04/11/73 (186), 06/09/88 (621) 05/11/89 (643), 09/08/94 (798), 04/09/98 (865), 03/11/99 (881), 03/25/04 (1024)

- (a) It shall be unlawful for any person to cause or allow the emission of any air contaminant for a period or periods aggregating more than 3 minutes in any 1 hour, which is:
 - (1) Darker in shade than that designated as No. 1 (20% density) on the Ringelmann Chart, as published by the United States Bureau of Mines; or
 - (2) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in Section 9.03(a)(1).
- (b) The density or opacity of an air contaminant shall be measured at the point of its emission, except when the point of emission cannot be readily observed, it may be measured at an observable point of the plume nearest the point of emission.
- (c) This section shall not apply when the presence of uncombined water is the only reason for the failure of the emission to meet the requirements of this section.
- (d) This section shall not apply to solid fuel burning devices, permitted fire training facilities, permitted obscurant usage during military training operations, outdoor fires, motor vehicles when operated on public roads, aircraft, or equipment subject to Section 9.04 of this regulation.
- (e) This section shall not apply to equipment with an alternate opacity standard issued under Section 3.03 or Article 6 of this regulation that is based upon a correlation with the particulate concentration and that accurately indicates a violation of the applicable particulate emission standards in Section 9.09 of this regulation.

SECTION 9.04 OPACITY STANDARDS FOR EQUIPMENT WITH CONTINUOUS OPACITY MONITORING SYSTEMS

Adopted 04/09/98 (865)

Revised 03/25/04 (1024)

- (a) Applicability. This section shall apply to all equipment required to be equipped with a continuous emission monitoring system for opacity.
- (b) It shall be unlawful for any person to cause or allow the operation of any of the following equipment unless equipped with a continuous emission monitoring system for opacity:
 - (1) Cement kilns;
 - (2) Clinker coolers;

- (3) Glass furnaces, rated at greater than 1 ton per hour, that burn fuel;
 - (4) Fuel burning equipment, rated at 100 million Btu per hour or greater, that burns wood, coal, or residual oil; and
 - (5) Refuse burning equipment rated at greater than 12 tons per day.
- (c) It shall be unlawful for any person to cause or allow the emission of any air contaminant from any equipment subject to this section during any hour that:
- (1) Averages greater than 5% opacity; or
 - (2) Contains any consecutive 6-minute period averaging greater than 20% opacity.
- (d) Section 9.04(c)(1) shall not apply to:
- (1) Glass furnaces that are tested annually for compliance with the applicable particulate emission standard in Section 9.09 of this regulation; or
 - (2) Equipment with an alternate opacity standard issued under Section 3.03 or Article 6 of this regulation that is based upon a correlation with the particulate concentration and that accurately indicates a violation of the applicable particulate emission standards in Section 9.09 of this regulation.
- (e) This section shall not apply to sources controlled by a venturi scrubber, provided that:
- (1) The source is tested annually for compliance with the applicable particulate emission standard in Section 9.09 of this regulation;
 - (2) The pressure drop across the scrubber is continuously monitored and recorded; and
 - (3) The scrubbing liquid flow rate and temperature are continuously monitored and recorded.
- (f) This section shall not apply to fuel burning equipment that burns residual oil less than 31 days per year, provided that the source implements an alternate opacity monitoring plan issued under Section 3.03 or Article 6 of this regulation.

SECTION 9.05 REFUSE BURNING Adopted 03/13/68 (12)
Revised 06/09/88 (621), 12/09/93 (769)

- (a) It shall be unlawful for any person to cause or allow the burning of combustible refuse except in a multiple chamber incinerator provided with control equipment.
- (b) It shall be unlawful for any person to cause or allow the operation of refuse burning equipment any time other than daylight hours.

SECTION 9.07 SULFUR DIOXIDE EMISSION STANDARD Adopted 03/13/68 (12)
 Revised 07/08/70 (126), 02/21/74 (230), 02/13/86 (597), 06/09/88 (621), 04/14/94 (784)

It shall be unlawful for any person to cause or allow the emission of sulfur dioxide from any source in excess of 1,000 parts per million by volume on a dry basis, 1-hour average (corrected to 7% oxygen for fuel burning equipment and refuse burning equipment).

SECTION 9.08 FUEL OIL STANDARDS Adopted 06/13/85 (579)
 Revised 02/13/86 (597), 04/14/94 (784), 03/25/04 (1024)

(a) It shall be unlawful for any person to cause or allow the combustion of oil in fuel burning equipment or refuse burning equipment that exceeds any of the following limits unless that person has obtained an Order of Approval from the Agency in accordance with Article 6 of this regulation:

Ash.....	0.1% (maximum)
Sulfur	1.0% (maximum for used oil)
Sulfur	2.00% (maximum for fuel oil)
Lead	100 ppm (maximum)
Arsenic.....	5 ppm (maximum)
Cadmium	2 ppm (maximum)
Chromium.....	10 ppm (maximum)
Total Halogens.....	1,000 ppm (maximum)
Polychlorinated Biphenyls (PCBs).....	2 ppm (maximum)
Flash Point	100°F (minimum)

(b) It shall be unlawful for any person to sell or make available for sale any oil in excess of the limits of this section to any person who has not obtained an Order of Approval from the Agency in accordance with Article 6 of this regulation. Any person who sells or makes available for sale such oil shall submit a report to the Agency within 15 days of the end of the month that includes the name and address of the recipient, the amount of oil delivered, and the concentration of contaminants therein.

- (c) The provisions of this section shall not apply to:
- (1) Ocean-going vessels;
 - (2) Used oil burned in space heaters that have a maximum heat output of not greater than 0.5 million Btu per hour; and
 - (3) Persons in the business of collecting used oil from residences when under authorization by a city, county, or the utilities and transportation commission.

SECTION 9.09 PARTICULATE MATTER EMISSION STANDARDS

Adopted 03/13/68 (12)

Revised 07/08/70 (126), 11/10/71 (135), 10/10/73 (214), 02/13/86 (597), 06/09/88 (621), 05/11/89 (643), 02/10/94 (777), 04/09/98 (865)

It shall be unlawful for any person to cause or allow the emission of particulate matter in excess of the following concentrations:

Refuse Burning Equipment:

1. Rated at 12 tons per day or less without heat recovery and without hydrochloric acid control equipment..... 0.10 gr/dscf @ 7% O₂
2. Rated at 12 tons per day or less without heat recovery and with hydrochloric acid control equipment..... 0.05 gr/dscf @ 7% O₂
3. Rated at 12 tons per day or less with heat recovery..... 0.02 gr/dscf @ 7% O₂
4. Rated at greater than 12 tons per day 0.01 gr/dscf @ 7% O₂

Fuel Burning Equipment:

1. Burning wood 0.20 gr/dscf @ 7% O₂
2. Burning wood and installed after March 13, 1968 or located within the urbanized area 0.10 gr/dscf @ 7% O₂
3. Burning wood, rated at 100 million Btu per hour or greater, and located within the urbanized area 0.04 gr/dscf @ 7% O₂
4. Burning wood and installed after March 1, 1986 0.02 gr/dscf @ 7% O₂
5. Burning fuel other than wood 0.05 gr/dscf @ 7% O₂
6. Burning coal or other solid fossil fuel and installed after March 1, 1986 0.01 gr/dscf @ 7% O₂

Equipment Used in a Manufacturing Process: 0.05 gr/dscf

SECTION 9.10 EMISSION OF HYDROCHLORIC ACID Adopted 06/09/88 (621)

- (a) It shall be unlawful for any person to cause or allow the emission of hydrochloric acid from any equipment in excess of 100 ppm on a dry basis, 1-hour average corrected to 7% oxygen for combustion sources.
- (b) It shall be unlawful for any person to cause or allow the emission of hydrochloric acid from any refuse burning equipment rated at greater than 12

tons per day in excess of 30 ppm on a dry basis, 1-hour average corrected to 7% oxygen.

SECTION 9.11 EMISSION OF AIR CONTAMINANT: DETRIMENT TO PERSON OR PROPERTY Adopted 03/13/68 (12)

Revised 06/09/83 (536), 03/11/99 (882)

- (a) It shall be unlawful for any person to cause or allow the emission of any air contaminant in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.
- (b) With respect to odor, the Agency may take enforcement action under this section if the Control Officer or a duly authorized representative has documented all of the following:
 - (1) The detection by the Control Officer or a duly authorized representative of an odor at a level 2 or greater, according to the following odor scale:
 - level 0 – no odor detected;
 - level 1 – odor barely detected;
 - level 2 – odor is distinct and definite, any unpleasant characteristics recognizable;
 - level 3 – odor is objectionable enough or strong enough to cause attempts at avoidance; and
 - level 4 – odor is so strong that a person does not want to remain present;
 - (2) An affidavit from a person making a complaint that demonstrates that they have experienced air contaminant emissions in sufficient quantities and of such characteristics and duration so as to unreasonably interfere with their enjoyment of life and property; and
 - (3) The source of the odor.
- (c) Nothing in this Regulation shall be construed to impair any cause of action or legal remedy of any person, or the public for injury or damages arising from the emission of any air contaminant in such place, manner or concentration as to constitute air pollution or a common law nuisance.

SECTION 9.13 EMISSION OF AIR CONTAMINANT: CONCEALMENT AND MASKING RESTRICTED Adopted 03/13/68 (12)

Revised 06/09/88 (621)

- (a) It shall be unlawful for any person to cause or allow the installation or use of any device or use of any means which, without resulting in a reduction in the total amount of air contaminant emitted, conceals an emission of air contaminant which would otherwise violate this article.

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

SECTION 9.15 FUGITIVE DUST CONTROL MEASURES

Adopted 03/13/68 (12)
Revised 06/09/83 (536), 06/09/88 (621), 08/10/89 (644), 03/11/99 (882)

- (a) 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 include, but are not limited to, the following:
 - (1) The use of control equipment, enclosures, and wet (or chemical) suppression techniques, as practical, 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 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.
- (b) Compliance with the provisions of this section shall not relieve any person from the responsibility to comply with Section 9.11 of this regulation.

SECTION 9.16 SPRAY-COATING OPERATIONS

Adopted 06/13/91 (700)
Revised 07/08/99 (886), 07/12/01 (944)

- (a) Applicability. This section applies to spray-coating operations at facilities subject to Article 5 (Registration) or Article 7 (Operating Permits) of this regulation, where a coating that protects or beautifies a surface is applied with spray-coating equipment.
- (b) Exemptions. The following activities are exempt from the provisions of Sections 9.16(c) and (d) of this regulation. Persons claiming any of the following spray-coating exemptions shall have the burden of demonstrating compliance with the claimed exemption.
 - (1) Application of architectural or maintenance coatings to stationary structures (e.g., bridges, water towers, buildings, stationary machinery, or similar structures);
 - (2) Aerospace coating operations subject to 40 CFR Part 63, Subpart GG. This includes all activities and materials listed in 40 CFR 63.741(f);

- (3) Use of high-volume, low-pressure (HVLP) spray guns when:
 - (A) spray-coating operations do not involve motor vehicles or motor vehicle components;
 - (B) the gun cup capacity is 8 fluid ounces or less;
 - (C) the spray gun is used to spray-coat less than 9 square feet per day per facility;
 - (D) coatings are purchased in containers of 1 quart or less; and
 - (E) spray-coating is allowed by fire department, fire marshal, or other government agency requirements.
 - (4) Use of air-brush spray equipment with 0.5 to 2.0 CFM airflow and a maximum cup capacity of 2 fluid ounces;
 - (5) Use of hand-held aerosol spray cans with a capacity of 1 quart or less; or
 - (6) Indoor application of automotive undercoating materials using organic solvents having a flash point in excess of 100°F.
- (c) **General Requirements for Indoor Spray-Coating Operations.** It shall be unlawful for any person subject to the provisions of this section to cause or allow spray-coating inside a structure, or spray-coating of any motor vehicles or motor vehicle components, unless the spray-coating is conducted inside an enclosed spray area. The enclosed spray area shall employ either properly seated paint arresters, or water-wash curtains with a continuous water curtain to control the overspray. All emissions from the spray-coating operation shall be vented to the atmosphere through an unobstructed vertical exhaust vent.
- (d) **General Requirements for Outdoor Spray-Coating Operations.** It shall be unlawful for any person subject to the provisions of this section to cause or allow spray-coating outside an enclosed structure unless reasonable precautions are employed to minimize the overspray. Reasonable precautions include, but are not limited to the use of:
- (1) Enclosures and curtailment during high winds; and
 - (2) High-volume low-pressure (HVLP), low-volume low-pressure (LVLP), electrostatic, or air-assisted airless spray equipment. Airless spray equipment may be used where low viscosity and high solid coatings preclude the use of higher-transfer efficiency spray equipment.
- (e) **Compliance with Other Regulations.** Compliance with this regulation does not exempt any person from compliance with Regulation I, Section 9.11 and all other applicable regulations including those of other agencies.

SECTION 9.20 MAINTENANCE OF EQUIPMENT Adopted 12/09/82 (531)
Revised 06/09/88 (621)

- (a) It shall be unlawful for any person to cause or allow the operation of any features, machines or devices constituting parts of or called for by plans, specifications, or other information submitted pursuant to Article 6 of Regulation I unless such features, machines or devices are maintained in good working order.
- (b) It shall be unlawful for any person to cause or allow the operation of any equipment as defined in Section 1.07 or control equipment not subject to Section 9.20(a) unless the equipment or control equipment is maintained in good working order.

ARTICLE 12: STANDARDS OF PERFORMANCE FOR CONTINUOUS EMISSION MONITORING SYSTEMS

SECTION 12.01 APPLICABILITY Adopted 11/10/71 (135) Revised 06/09/88 (621), 08/10/89 (644), 04/09/98 (865)

This article shall apply to all continuous emission monitoring systems (CEMS) required under an order, operating permit, or regulation of the Agency. This article shall not be construed to relieve any person of the responsibility to comply with any requirement of 40 CFR Part 60, 61, or 63. Portions of these federal requirements that are less stringent than the provisions of Article 12 shall not supercede the requirements of Article 12.

SECTION 12.03 CONTINUOUS EMISSION MONITORING SYSTEMS Adopted 06/09/88 (621) Revised 08/10/89 (644), 04/09/98 (865), 03/25/04 (1024), 09/23/04 (1036)

- (a) **Continuous Monitoring.** It shall be unlawful for any person to cause or allow the operation of any equipment required to have a continuous emission monitoring system unless the emissions are continuously monitored in accordance with the requirements of this section.
- (b) **Data Recovery.** The owner or operator shall recover valid hourly monitoring data for at least 95% of the hours that the equipment (required to be monitored) is operated during each calendar month except for periods of monitoring system downtime, provided that the owner or operator demonstrates that the downtime was not a result of inadequate design, operation, or maintenance, or any other reasonably preventable condition, and any necessary repairs to the monitoring system are conducted in a timely manner.
- (c) **Quality Assurance.** The owner or operator shall install a continuous emission monitoring system that meets the performance specification in 40 CFR Part 60, Appendix B in effect at the time of its installation, and shall operate this monitoring system in accordance with the quality assurance procedures in Appendix F of 40 CFR Part 60 in effect as of the federal regulation reference date listed in Section 3.25 of this regulation herein incorporated by reference, and the U.S. Environmental Protection Agency's "Recommended Quality Assurance Procedures for Opacity Continuous Monitoring Systems" (EPA 340/1-86-010).
- (d) **Data Recording.** Monitoring data commencing on the clock hour and containing at least 45 minutes of monitoring data shall be reduced to 1-hour averages. Monitoring data for opacity shall also be reduced to 6-minute averages. All monitoring data shall be included in these averages except for

data collected during calibration drift tests and cylinder gas audits, and for data collected subsequent to a failed quality assurance test or audit.

- (e) **Data Retention.** The owner or operator shall retain all monitoring data averages for at least 2 years, including copies of all reports submitted to the Agency and records of all repairs, adjustments, and maintenance performed on the monitoring system. All such data collected after October 1, 1998 shall be retained for at least 5 years.
- (f) **Data Reporting.** The owner or operator shall submit a monthly report to the Agency within 30 days after the end of the month in which the data were recorded. This report shall include:
 - (1) The date, time period, magnitude (in the units of the standard) and cause of each emission that exceeded an applicable emission standard;
 - (2) The date and time of all actions taken to correct the problem, including any actions taken to minimize the emissions during the exceedance and any actions taken to prevent its recurrence;
 - (3) The number of hours that the equipment (required to be monitored) operated each month and the number of valid hours of monitoring data that the monitoring system recovered each month;
 - (4) The date, time period, and cause of each failure to meet the data recovery requirements of Section 12.03(b) and any actions taken to ensure adequate collection of such data;
 - (5) The date, time period, and cause of each failure to recover valid hourly monitoring data for at least 90% of the hours that the equipment (required to be monitored) was operated each day;
 - (6) The results of all cylinder gas audits conducted during the month; and
 - (7) A certification of truth, accuracy, and completeness signed by an authorized representative of the owner or operator.
- (g) **Relative Accuracy Tests.** All relative accuracy tests shall be subject to the provisions of Section 3.07 of this regulation.
- (h) **Exemptions.** The data recording and reporting requirements of Sections 12.03(d) and 12.03(f) shall not apply to continuous VOC monitoring systems required under Section 2.05 of Regulation II. Further, relative accuracy tests shall not be required of these monitoring systems and may be waived for any other monitoring system not otherwise subject to 40 CFR Part 60, Appendix F, provided that the owner or operator demonstrates to the Control Officer that the emissions are consistently below 10% of the applicable emission standard.

ARTICLE 13: SOLID FUEL BURNING DEVICE STANDARDS

SECTION 13.01 POLICY AND PURPOSE Adopted 11/10/88 (634)

Revised 09/26/91 (708), 09/09/99 (895)

The Board of Directors of the Puget Sound Clean Air Agency declares it to be the public policy of the Agency to control and reduce air pollution caused by woodstove emissions. It is the Agency's policy to reduce woodstove emissions by encouraging the continued efforts to educate the public about the effects of woodstove emissions, other heating alternatives, and the desirability of achieving better emission performance and heating efficiency from woodstoves pursuant to the emissions performance standards as adopted by the Department of Ecology. It is further the policy of the Board to encourage the replacement of uncertified woodstoves with cleaner sources of heat.

The Board encourages cities, towns and counties within its jurisdiction to adopt woodsmoke control programs including enhanced public education and abatement ordinances and assist in the enforcement of this Regulation during declared air quality episodes and periods of impaired air quality. Nothing in this Regulation shall be construed to impair the right of any city, town or county to adopt and enforce woodsmoke abatement ordinances.

SECTION 13.02 GENERAL CONDITIONS FOR SOLID FUEL BURNING DEVICES Adopted 09/23/04 (1036)

Revised 09/22/05 (1057)

In addition to the provisions of this regulation, the Agency adopts by reference and enforces the following provisions for solid fuel burning devices established by the Washington State Department of Ecology:

WAC 173-433-030	Definitions. (effective 4/20/91)
WAC 173-433-110	Opacity standards. (effective 3/6/93)
WAC 173-433-120	Prohibited fuel types. (effective 4/20/91)
WAC 173-433-130	General emission standards. (effective 4/20/91)
WAC 173-433-140 (1)(b), (2), (3), and (4)	Impaired air quality criteria. (effective 4/20/91) (First Stage of Impaired Air Quality has the meaning contained in RCW 70.94.473(1)(b); Second Stage of Impaired Air Quality has the meaning contained in RCW 70.94.473(1)(c))
WAC 173-433-150	Curtailement. (effective 4/20/91)

SECTION 13.03 CONTINGENCY PLAN Adopted 12/08/94 (808)
Renumbered 09/23/04 (1036)

The following provision is established for the sole purpose of a contingency measure to meet the requirements of Section 172(c)(9) of the federal Clean Air Act. If the U.S. Environmental Protection Agency makes written findings that: (1) an area has failed to attain or maintain the national ambient air quality standard, and (2) in consultation with the Washington Department of Ecology and the Agency, finds that the emissions from solid fuel burning devices are a contributing factor to such failure to attain or maintain the standard, the use of woodstoves not meeting the standards set forth in RCW 70.94.457 shall be prohibited within the area determined by the Agency to have contributed to the violation. This provision shall take effect one year after such a determination.