TABLE 5 – ADDITIONAL REGULATIONS APPROVED FOR THE NORTHWEST CLEAN AIR AGENCY (NWCAA) JURISDICTION

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

Northwest Clean Air Agency Regulations

GENERAL PROVISIONS

SECTION 100 - NAME OF AUTHORITY

100.1 The multi-county agency, consisting of Island, Skagit and Whatcom Counties, having been formed pursuant to the Washington State Clean Air Act RCW 70.94, shall be known and cited as the "Northwest Air Pollution Authority", and hereinafter may be cited as "NWAPA".

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 101 - SHORT TITLE

101.1 This Regulation may be known and cited as the "Regulation of the Northwest Air Pollution Authority".

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 102 - POLICY

102.1 It shall be the policy of the NWAPA to secure and maintain such levels of air quality as will protect human health and safety, prevent injury to plant and animal life and to property, and foster the comfort and convenience of the inhabitants of this area in order to facilitate their enjoyment of the area's natural beauty and thus promote economic and social well being.

102.2 In order to carry out the requirements of the Washington Clean Air Act and to provide uniform administration and enforcement, the NWAPA adopts the following policies, procedures, standards, prohibitions, and ambient air quality objectives.

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

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

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

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

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

102.41 Require the best practical technology for those who locate here or are required to upgrade their facilities.

102.42 Allow expansion of an area only if the probable emissions of the newcomers, when added to those from presently existing facilities, are not likely to cause violations of existing ambient air standards.

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

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

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

102.51 Incompatible land uses are discouraged.

102.52 Zones are intermixed in such a way that air pollution problems may be minimized.

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

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

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

102.61 Zones should be intermixed in such a way that high density zones are intermixed with low density zones so as to reduce air contaminant output.

102.62 As the density of zones becomes greater, consideration must be given to restricting the number of units a given zone can accommodate.

102.63 Concentrations of population or industries be allowed only up to the point where there is reason to believe that the air quality objectives in a given air basin are not likely to be exceeded.

State effective: 9/8/93, EPA .effective: 4/24/95

SECTION 103 - DUTIES AND POWERS

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

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

103.2 The Board shall require that the Control Officer maintain appropriate records and prepare periodic reports.

103.3 The Board shall receive minutes of meetings of the Advisory Council as required. The decisions of the Advisory Council shall be forwarded to the Board in writing and shall include minority opinions in cases of serious disagreement.

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

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 104 - ADOPTION OF STATE and FEDERAL LAWS and RULES

104.1 All provisions of State Law as it now exists or may be hereafter amended, which is pertinent to the operation of the Authority is here by adopted by reference and made part of the Regulation of the Authority as of October 13, 1994. Specifically, there is adopted by reference the Washington State Clean Air Act (RCW 70.94), the Administrative Procedures Act (RCW 34.04) and RCW 43.21A and 43.21B and the following state rules: WAC 173-400, WAC 173-401, WAC 173-405, WAC 173-410, WAC 173-415, WAC 173-420, WAC 173-421, WAC 173-422, WAC 173-425, WAC 173-430, WAC 173-433, WAC 173-434, WAC173-435, WAC 173-450, WAC 173-460, WAC 173-470, WAC 173-474, WAC 173-475, WAC 173-480 , WAC 173-481, WAC 173-490, WAC 173-491, WAC 173-492, WAC 173-495, and WAC 173-802.

~~**104.2** All provisions of the following federal rules are hereby adopted by reference and made part of the Regulation of the Authority as of October 13, 1994: 40 CFR Part 60 (Standards of Performance For New Stationary Sources) subparts A, B, C, Ca, Cb, D, Da, Db, Dc, E, Ea, F, G, H, I, J, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AAa, BB, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, WW, XX, AAA, BBB, DDD, FFF, GGG, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV; and 40 CFR Part 61 (National Emission Standards For Hazardous Air Pollutants) Subparts A, B, C, D, E, F, H, J, K, L, M, N, O, P, Q, R, T, V, W, Y, BB, FF and 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) Subparts A, B, C, D, F, G, H, I, L, M, and Q.~~

State effective: 11/13/94, EPA effective 12/26/95

SECTION 105 - SEPARABILITY

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

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 106 - PUBLIC RECORDS

106.1 The purpose of this section is to implement the requirements of RCW 42.17.250–42.17.320 (Public Disclosure Law--Public Records).

106.2 Definitions

106.21 The terms "agency", "public record", and "writing" shall have the same meaning as stated in RCW 42.17.020.

106.3 Public records available

106.31 All public records of the Authority are available for public inspection and copying at its office located at 302 Pine Street, #207, Mount Vernon, Washington 98273 pursuant to these rules subject to subsections 106.32, 106.33, and 106.34 of this section.

106.32 Availability of public records is subject to exemptions and requirements of RCW42.17.310.

106.33 When a public record includes information, the disclosure of which would lead to an unreasonable invasion of personal privacy, and the Authority becomes aware of this fact, the Authority shall delete such information before making the record available.

106.34 Public records requested may not be readily available for immediate inspection. If the requested records are not readily available, the Authority shall notify the requester when such records will be available.

106.4 Records Index. The Authority does not maintain an index of just the public records listed in RCW 42.17.260. The Authority's Board of Directors are of the opinion that the establishment of such an index would be unduly burdensome and interfere with the Authority's operation because a significant and integral portion of the Authority's records are exempt from public inspection and copying pursuant to RCW 42.17.310. The release of such records would be an unreasonable invasion of personal privacy or the violation of the confidentiality of records and information provisions of the State Clean Air Act (RCW 70.94.205).

The Authority is in substantive compliance with RCW 42.17.260 by making available for public inspection and copying public records listed in RCW 42.17.260 (2) (a), (b), (c), (d), (e), and (f). These include promulgated regulations of the Authority, final opinions made in adjudicated cases, minutes and resolutions of the Board of Directors, monthly activity reports, policy memorandums of the Control Officer, logs of Notice of Violations issued, upset, breakdown and startup reports, assessment of penalties, index of registered sources, annual emission inventories and summaries of ambient air monitoring data, annual state and federal grant applications, including the annual program plan, certification to operate, inspection reports for air pollution sources, variance and notice of construction records with confidential records and information deleted in accordance with RCW 70.94.205.

The Control Officer or designee shall assist any person to obtain public records requested from the Authority's record files.

106.5 Request for public records.

106.51 All requests for inspection or copying made in person at the Authority office shall be made on a form substantially as follows:

106.52 REQUEST FOR PUBLIC RECORDS

Date of Request: _____ Time:_____
Name: _____
Address: _____
City, State, Zip: _____
Telephone No: _____
Description of Records Requested: _____
_____
_____
_____
_____

I certify that lists of names obtained through this request for public records will not be used for political or commercial purposes.

Signature: _____

FOR AUTHORITY USE:

Number of Copies: _____
Number of Pages: _____
Per Page Charge: $_____
Total Charge: $_____

All requests made in person may be made at the Authority Office between the hours of 9:00 a.m. to 12:00 Noon and 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. A request for inspection or copying of public records may be made by mail in a letter containing the following information:

(a) The name and address of the person making the request and the organization the person represents.
(b) The time of day and calendar date on which the person wishes to inspect the publish records.
(c) A description of the public records requested.
(d) A statement whether access to copying equipment is desired.
(e) A phone number where the person can be reached in case the Control Officer or designee needs to contact the person for further description of the material or any other reason.
(f) A statement that the record will not be used for commercial purposes.

All requests by mail must be received by the Authority at least three business days before the requested data of inspection to allow the Control Officer or designee to make certain the

requested records are available and not exempt and, if necessary, to contact the person requesting inspection.

The Authority may in its discretion fill requests made by telephone.

106.6 Fees. No fee shall be charged for the inspection of public records. For printed, typed and written material a maximum size of 8 1/2" by 14", the Authority shall charge a reasonable fee,
determined from time to time by the Control Officer, for providing copies of public records and for use of the Authority's copy equipment, payable at the time copies are furnished. This charge is the amount necessary to reimburse the Authority for its actual costs incident to such copying. Copies of maps, photos, reports, and other nonstandard items shall be furnished at the regular price established by the Authority. When other special copy work for nonstandard items is requested, the fee charged will reflect the total cost, including the time of Authority personnel.

106.7 Statement of reason for denial of public records request. When the Authority refuses, in whole or part, a written request for inspection of any public record, it shall include a statement of the specific exemption authorizing the refusal and a brief explanation of how the exemption applies to the record withheld.

106.8 Reviews of denials of public records request.

106.81 Any person who objects to the refusal of a written request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the Control Officer or designee which constituted or accompanied the refusal.

106.82 Immediately after receiving a written request for review of a decision denying a public record, the Control Officer or designee denying the request shall refer it to the Employer Committee of the Authority Board of Directors. The committee shall promptly consider the matter and either affirm or reverse such refusal. The final decision shall be sent to the objecting persons.

106.9 Protection of public records. In order to adequately protect the public records of the Authority, the following guidelines shall be adhered to by any person inspecting such public records:

106.91 No public records shall be removed from the Authority premises.

106.92 Inspection of any public record shall be conducted in the presence of a designatedAuthority employee.

106.93 No public records may be marked or defaced in any manner during inspection.

106.94 Public records, which are maintained in a file or jacket, or chronological order, may not be dismantled except for purposes of copying and then only by the Control

Officer or designee.

106.95 Access to file cabinets, shelves, vaults, and other storage areas is restricted to Authority personnel, unless other arrangements are made with the Control Officer or designee.

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 110 INVESTIGATION AND STUDIES

110.1 The Control Officer and/or his qualified agents may make any reasonable investigation or study which is necessary for the purpose of standards or any amendments thereto on reducing the amount or kind of contaminant.

110.2 When investigating conditions specific to the control, recovery or release of air contaminants, the Control Officer or his duty authorized representatives shall have the power to enter at reasonable times upon any private or public property, except non- multiple unit private dwellings housing two families or less.

110.3 If an authorized employee of the Authority, during the course of an inspection desires to obtain a sample of air contaminant, he shall notify the owner or lessee of the time and place of obtaining a sample so the owner or lessee has the opportunity to take a similar sample at the same time and place. A receipt shall be given to the owner or lessee for the sample obtained.

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 111 - INTERFERENCE OR OBSTRUCTION

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

State effective: 9/8/93, EPA effective: 4/24/95

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

112.1 No person shall willfully make a false or misleading oral statement to the Board as to any matter within the jurisdiction of the Board.

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

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 113 - SERVICE OF NOTICE

113.1 Service of any written notice required by the Regulation of this Authority shall be made on the owner or lessee of equipment, or his registered agent, as follows:

113.11 Either by mailing the notice in a prepaid envelope directed to the owner or lessee of the equipment, or his registered agent, at the address listed on his application or order or registration certificate or at the address where the equipment is located, by United States Certified Mail, return receipt requested; or

113.12 By leaving notice with the owner or lessee of the equipment, or his registered agent, or if the owner or lessee is not an individual, with a member of the partnership or other group concerned, or with a managing officer or the registered agent of the corporation under RCW 23A.08 or RCW23A.32 as now or hereafter amended for domestic and foreign corporations respectively.

113.2 Service of any written notice required by the Regulations of this Authority shall be made on the Authority as follows:

113.21 Either by mailing the notice in a prepaid envelope directed to the Authority at its office by United States Certified Mail, return receipt requested; or

113.22 By leaving the notice at the Authority office with an employee of the Authority.

113.3 Any individual, owner, lessee, managing officer or registered agent of any business, corporation or government agency coming under the Regulations of this Authority may be required to submit evidence that said person is authorized to sign and execute documents on behalf of said corporation, business or government agency.

State effective: 9/8/95, EPA effective: 4/24/95

SECTION 114 CONFIDENTIAL INFORMATION

114.1 Whenever any records or other information other than ambient air quality data or emission data furnished to or obtained by the Authority pursuant to any sections in the State Act as now or hereafter amended, relates to processes or production unique to the owner or operator, or are likely to affect adversely the competitive position such owner or operator of such processes or production may so certify and request that such records or information be made available only for the confidential use of the Board, the Advisory Council, and Authority staff.

The Board shall give consideration to the request and if such action would not be detrimental to the public interest and is otherwise within accord with the policies and purposes of the Regulation of this Authority and with State Laws, may grant the same. Nothing herein shall be construed to prevent the use of records or information by the Board, the Advisory Council, or staff in compiling or publishing analyses or summaries relating to the general condition of the outdoor atmosphere; PROVIDED, that such analyses or summaries do not reveal any information otherwise confidential under the provision of this Section. No member of the Board, Advisory Council, or staff of the Authority shall have access to any confidential information in which they may, in the opinion of the Board, have a conflict of interest; PROVIDED FURTHER, that emission data furnished to or obtained by the Board shall be correlated with applicable emission limitations and other control measures and shall be available for public inspection during normal business hours at the office of the Authority.

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 120 - HEARINGS

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

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

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

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

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

120.2 Any hearings held under this section, under the Washington Clean Air Act (RCW 70.94) or RCW 43.21A and 43.21B shall be pursuant to the provisions of RCW 34.04.100 as now or hereafter amended.

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 121 - ORDERS

121.1 If the Board or Control Officer has reason to believe that any provision of this Regulation has been violated, the Board or Control Officer, may, in addition to any other remedy of law, issue an order, or orders, that the necessary corrective action be taken within a reasonable time. Such order or orders may advise methods for the prevention, abatement or control of the emission involved for taking of such other corrective actions as may be appropriate. Any order or orders issued as a part of a notice or independently may prescribe the date or dates by which the violation or violations shall cease and may prescribe time schedules for necessary action in preventing, abating or controlling the emissions, and shall be reported to the Board at its next regular meeting.

121.2 In lieu of an order the Board may hold a hearing to determine if a violation has occurred

or is occurring and is a finding is made that a violation has occurred may issue an order under Section 121.1 of this Regulation.

121.3 In lieu of an order the Board or Control Officer may require that the alleged violator or violators appear before the Hearings board pursuant to State Law.

121.4 Any orders issued by the Board or Control Officer are subject to appeal under Section 122 of this Regulation.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 122 - APPEALS FROM ORDERS OR VIOLATIONS

122.1 Any order or notice of violation issued by the Board or Control Officer shall become final unless, no later than thirty (30) days after the date that notice and order are served, the person aggrieved by the order or notice of violation appeals to the Hearings Board as provided by State Law.

122.2 Any order issued by the Board after a hearing shall become final unless no later than thirty (30) days after the issuance of such order, a petition requesting judicial review is filed in accordance with the provisions Chapter 34.04 RCW as now or hereafter amended. When such a petition is filed, the Superior Court shall initiate a hearing pursuant to RCW 34.04.130 within ninety (90) days after the receipt of the petition requesting judicial review. Every appeal from a decision of the Superior Court shall be heard by the appropriate appellate court as soon as possible. Such appeal shall be considered a case involving issues of broad public import requiring prompt and ultimate determination.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 123 - STATUS OF ORDERS ON APPEAL

123.1 An order of the Board or Control Officer issued under the Authority of Section 121 may be appealed. Such appeal must be filed with the Pollution Control Hearings Board and served on the Authority within 30 days after mailing of the order. This is the exclusive means of appeal of such an order.

123.2 The order shall remain in effect during the pendency of such appeal unless the Board or Control Officer, at their discretion, issue an Order staying the effectiveness of the original order.

123.3 The appellant may also apply to the Hearings Board at any time for a stay of such order.

123.4 Such notice of appeal must contain the following information:

(a) The appellant's name and address.
(b) The date and docket number of the order, permit or license that is subject to the appeal.
(c) Description of the substance of the order, permit or license that is the subject of the appeal.

(d) A clear, separate and concise statement of each error alleged to have been committed.

(e) A clear, separate and concise statement of facts upon which the appellant relies to sustain the statements of error.

(f) A statement setting forth the relief sought.

123.5 The Board or Control Officer may request attorney for the Authority to bring action in Superior Court, and attorney, upon request, shall bring an action in Superior Court of the county where the violation has occurred, or the violation may occur, to obtain any such relief as is necessary to insure compliance with said order, including injunctive relief. No bond shall be required from the Authority as a condition of granting any restraining order or temporary injunction.

State effective: 9/8/93, EPA effective: 4/24/95

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

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

124.2 In the event that the Authority requires a notice to be displayed; it shall be posted. No person shall mutilate, obstruct or remove any notice unless authorized to do so by the Board or the Control Officer.

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 130 - CITATIONS - NOTICES

130.1 Whenever the Board or the Control Officer or his duly authorized agent has reason to believe that any provision relating to the control or prevention of air pollution has been violated, the Board or Control Officer or his duly authorized agent may cause written notice of this record to be served upon the alleged violator or violators. The notice shall specify the Regulation alleged to be violated, and the facts alleged to constitute a violation thereof.

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 131 - VIOLATION - NOTICES

131.1 If the Board or Control Officer has reason to believe that a violation of this Regulation has occurred or is occurring, the Board or Control Officer may, with or without notice as specified in Section 130, cause written notice of violation to be served upon the alleged violator and the facts alleged to constitute a violation thereof. Written notice shall be served at least thirty days prior to the commencement of any formal enforcement action under RCW 70.94.430 and 70.94.431.

131.2 The Board or Control Officer upon issuance of notice of violation may do any or all of the following:

131.21 Require that the alleged violator respond in writing or in person within ten (10) business days of the notice and specify the corrective Action being taken.

131.22 Issue an order pursuant to Section 121 of this Regulation.

131.23 Initiate action pursuant to Sections 132, 133, 134 and 135 of this Regulation.

131.24 Hold a hearing pursuant to Section 120 of this Regulation.

131.25 Require the alleged violator or violators appear before the Board.

131.26 Avail itself of any other remedy provided by law.

131.3 Failure to respond as required in Section 131.21 shall constitute a prima face violation of this Regulation and the Board or Control Officer may initiate action pursuant to Section 132, 133, 134, 135 of this Regulation.

131.4 Any suspended civil penalty, issued under Section 133 of this Regulation, which is issued as part of a violation shall be applicable in future penalties against the same person for not more than two years from the date of the same suspension. After two years the suspended portion of the Penalty shall be considered void and of no force or effect, appeals notwithstanding.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 132 - CRIMINAL PENALTY

132.1 Any person who knowingly violates any of the provisions of chapter 70.94 RCW or 70.120 RCW, or any ordinance, resolution, or regulation in force pursuant thereto, including the Regulation of the NWAPA, shall be guilty of a crime and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars (10,000) per day per violation, or by imprisonment in the county jail for not more than one year, or by both.

132.2 Any person who negligently releases into the ambient air any substance listed by the department of ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm shall be guilty of a crime and shall, upon conviction thereof shall be punished by a maximum fine of not less than ten thousand dollars ($10,000) per day per violation, or by imprisonment for not more than one year, or both.

132.3 Any person who knowingly releases into the ambient air any substance listed by the department of ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, shall be guilty of a crime and shall, upon conviction thereof shall be punished by a maximum fine of not less than fifty thousand dollars, or by imprisonment for not more than one year, or both.

132.4 Any person who knowingly fails to disclose a potential conflict of interest under RCW

70.94.100 shall be guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a maximum fine or not less than five thousand dollars.

132.5 Any person who knowingly renders inaccurate any required monitoring device or method as required by 40 CFR 70.11(a)(3)(iii) shall be guilty of a crime and upon conviction thereof shall be punished by a fine of not less than ten thousand dollars ($10,000) per day per violation.

132.6 Any person who knowingly makes any false material statement, representation, or certification in any form, in any notice or report required by a permit, as required by 40 CFR 70.11(a)(3)(iii) shall be guilty of a crime and upon conviction thereof shall be punished by a maximum fine of not less than ten thousand dollars ($10,000).
State effective: 11/13/94, EPA effective: 12/26/95

SECTION 133 - CIVIL PENALTY

133.1 In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of Chapter 70.94 RCW, chapter 70.120 RCW, any of the rules in force under such chapters, including the Regulation of the Northwest Air Pollution Authority shall be liable for a civil penalty in an amount of not more than eleven thousand dollars ($11,000) per day per violation. Each violation shall be a separate and distinct offense, and in the case of a continuing violation, each day's continuance shall be a separate and distinct violation. Any person who fails to take action as specified by an order shall be liable for a civil penalty of not more than eleven thousand dollars ($11,000) for each day of continued noncompliance.

133.2 Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalty shall become due and payable when the person incurring the same receives a notice in writing from the Control Officer of the Authority describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the Hearings Board. Within fifteen days after the notice is received, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. Upon receipt of the application the Control Officer shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstance such as the presence of information or factors not considered in setting the original penalty. If the amount of such penalty is not paid to the Authority within thirty (30) days after receipt of notice imposing the same and request for a hearing has not been made, the attorney for the Authority, upon the request of the Control Officer, shall bring an action to recover such penalty in the Superior Court of Skagit County or of the County in which the violation occurred. All penalties recovered under this section by the Board shall be paid unto the treasury of the Authority and credited to its funds.

To secure the penalty incurred under this Section, the Authority shall have a lien on any vessel used or operated in violation of this act which shall be enforced as provided in RCW 60.36.050.

133.3 Penalties incurred but not paid shall accrue interest, beginning on the ninety-first 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 thirty-first day following final resolution of the appeal.

The maximum penalty amounts established in this section may be increased annually to account for inflation as determined by the state office of the economic and revenue forecast council.

In addition to other penalties provided, 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 ninety days late with such payments, may be subject to a penalty equal to three times the amount of the original fee owed.
State effective: 11/13/94, EPA effective: 12/26/95

SECTION 134 - RESTRAINING ORDERS - INJUNCTIONS

134.1 Notwithstanding the existence or use of any other remedy, whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provisions of the Regulations of this Authority, or any rule, regulation or order issued by the Board or the Control Officer or his authorized agent, the Board, after notice to such person and an opportunity to comply, any 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.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 135 - ADDITIONAL ENFORCEMENT - COMPLIANCE SCHEDULES

135.1 As an additional means of enforcing the Regulations of this Authority the Board or Control Officer may accept an assurance of discontinuance of any act or practice deemed in violation of these Regulations from any person engaging in, or who has engaged in, such an act or practice. Any such assurance shall specify a time limit during which such discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of these Regulations or an order and/or violation issued pursuant thereto which make the practice unlawful for the purpose of securing any injunction or other relief from the Superior Court as provided in Section 134.

135.2 Any assurance of discontinuance or other compliance schedule shall specify, if appropriate, the amount of time required within the overall time limit to accomplish each of the following:

135.21 When plans for compliance will be filed with the Authority.

135.22 When a notice of construction will be filed with the Authority.

135.23 When the necessary equipment will be ordered and verification that an order has been placed and when delivery of the equipment is expected.

135.24 When the equipment will be installed.

135.25 When the equipment will be tested for compliance with the Regulations.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 140 - REPORTING BY GOVERNMENT AGENCIES

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

140.2 All governmental agencies which lie wholly or partially within the jurisdiction of this Authority, including but not limited to city and county planning agencies which recommend or adopt land-use and zoning regulations including the issuance of variances such as conditional or special use permits for the construction of any facilities which they have reason to believe may emit air pollutants; shall notify this Authority of any such action or construction prior to recommending or adopting of such regulations or the issuance of any such permits.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 145 - MOTOR VEHICLE OWNER RESPONSIBILITY

145.1 Whenever an act or omission is declared unlawful under this Regulation, with respect to the operation of a licensed motor vehicle, operating off the public roadways, if the operator of the vehicle is not the owner of such vehicle but is so operating or moving the same with the express consent or implied permission of the owner, then the operator and or owner shall both be subject to the provisions of this Regulation with the primary responsibility to be that of the owner.

145.2 Whenever an act or omission is declared unlawful with respect to the operation of a non-highway mobile source if the operator of the vehicle is not the owner of such vehicle but is operating or moving the same with the express consent or implied permission of the owner, then the operator and/or owner shall both be subject to the provisions of this Regulation with the primary responsibility to be that of the owner.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 145 - MOTOR VEHICLE OWNER RESPONSIBILITY

145.1 Whenever an act or omission is declared unlawful under this Regulation, with respect to the operation of a licensed motor vehicle, operating off the public roadways, if the operator of the vehicle is not the owner of such vehicle but is so operating or moving the same with the express consent or implied permission of the owner, then the operator and or owner shall both be subject to the provisions of this Regulation with the primary responsibility to be that of the owner.

145.2 Whenever an act or omission is declared unlawful with respect to the operation of a

non-highway mobile source if the operator of the vehicle is not the owner of such vehicle but is operating or moving the same with the express consent or implied permission of the owner, then the operator and/or owner shall both be subject to the provisions of this Regulation with the primary responsibility to be that of the owner.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 150 - POLLUTANT DISCLOSURE - REPORTING BY AIR CONTAMINANT SOURCES

150.1 Every person operating a Class A registered air contaminant source or a source subject to the operating permit program shall file annually at a time determined by the Authority and on forms furnished by the Authority a report setting forth:

150.11 The nature of the enterprise.

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

150.13 The estimated annual total production of wastes discharged into the air in units and contaminants designated by the Authority. Annual emission reports shall be submitted to the NWAPA within120 days after the end of the previous calendar year. If the emission report is not submitted by the required date and the emissions are used to determine operating permit fees as described in Section 324.126 then potential to emit will be used to determine said fees.

150.2 Every person operating a registered source other than Class A may be required by the Control Officer to submit periodic reports as in 150.1 if there is a significant change or increase in pollutant emissions.

150.3 Notwithstanding any exemptions under these Regulations or State or Federal laws, any source or sources which directly or indirectly contributes air contaminants to within the jurisdictional area of the Authority may be required to report annually to the Control Officer, at a time selected by the Control Officer, and on forms provided by the Control Officer, such emission production or sales data and quantities as may be required to estimate the emissions from the various air contaminant sources. Data will be held confidential under Section 114 if so stipulated by the owner or manager and meets the requirements of same. Such sources include, but are not limited to, dealers in gaseous liquid or solid fossil fuels for public consumption in motor vehicles or for space heating purposes.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 180 - SAMPLING AND ANALYTICAL METHODS - REFERENCES

180.1 Sampling and analytical methods used shall be current applicable Environmental Protection Agency and/or Department of Ecology Reference Methods or an equivalent method and/or a method specifically approved by the Control Officer.

DEFINITIONS

SECTION 200 - DEFINITIONS

AGRICULTURAL OPERATION - The growth of crops, the raising of fowl, animals or bees as a gainful occupation.

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

AIR CONTAMINANT SOURCE - Is a point or points from which one or more air contaminants originate.

AIR POLLUTION - Is present in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant, or animal life, or property, or which unreasonably interfere with enjoyment of life and property.

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

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

ALTERATION - Any addition to or enlargement or replacement of; or any major modification or fuel change or change of design, capacity, process or arrangement, or any increase in the connected loading of, equipment or control facility which may, in the opinion of the Control Officer, increase or adversely affect the kind or amount of air contaminant emitted or which results in the emission of any air pollutant not previously emitted for which ambient or emission standards are in effect.

AMBIENT AIR - The surrounding outside air.

AMBIENT AIR MONITORING STATION - A station so designated by the Control Officer for the purpose of measuring air contaminant concentrations in the ambient air. The station location and sampling probe locations shall be designated by the Control Officer utilizing as a guide CFR Title 40, Part 58, Appendix "D" Network Design and Appendix "E" Probe Siting Criteria.

AUTHORITY - Northwest Air Pollution Authority (NWAPA).

BEST AVAILABLE CONTROL TECHNOLOGY (BACT) - An emission limitation based

on the maximum degree of reduction for each air pollutant subject to regulation under Chapter 70.94 RCW emitted from or which results from any new or modified stationary source, which the permitting authority, on a case-by-base basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control for each such pollutant. In no event shall application of the "best available control technology" result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61, as they exist on October 13, 1994, or their later enactments as adopted by reference by the Control Officer by rule. Emissions from any source utilizing clean fuels, or any other means, to comply with this paragraph shall not be allowed to increase above levels that would have been required under the definition of BACT in the Federal Clean Air Act as it existed prior to enactment of the Clean Air Act Amendments of 1990.

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

BOARD - Board of Directors of the NWAPA.

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

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

COMBUSTION EQUIPMENT - Any device which includes a chamber where combustion takes place and for which a flue, vent, or chimney is required for the venting of the products of combustion from a boiler, furnace, incinerator, stove, heater, industrial furnace, etc.

COMPLAINANT - Any person who files a complaint.

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

CONTROL FACILITY - Includes any treatment works, control devices and disposal systems, machinery equipment, structures, property or any part of accessories thereof, installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste which,

if released to the outdoor atmosphere, could cause air pollution.

CONTROL OFFICER - Air Pollution Control Officer of the NWAPA.

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

ECOLOGY - Washington State Department of Ecology (WDOE).

EMISSION - The act of releasing into the atmosphere an air contaminant or a gas stream which contains or may contain an air contaminant, or the material released into the atmosphere.

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

EMISSION STANDARD - Limitation on the release of one or more contaminants to the ambient air.

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

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

EXISTING STATIONARY FACILITY - A stationary source of air pollutants which has the potential to emit two hundred fifty tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted. For purposes of determining whether a stationary source is an existing stationary facility the term "building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement.

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

FIELD GRASSES - Canary grass, bromegrass, oatgrass, timothy, ryegrass, wheatgrass, and orchard grass planted for seed production.

FIRE CHIEF - A state, county, or city fire marshal, city fire chief, chief of each County Fire Protection District or authorized forestry officials from the Washington State Department of Natural Resources.

FUEL BURNING EQUIPMENT - Any equipment, device, or contrivance, used for the

burning of any fuel, and all appurtenances thereto, including ducts, breachings, control equipment, fuel feeding equipment, ash removal equipment, combustion controls, stacks, chimneys, etc.

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

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

HEARINGS BOARD - The state Pollution Control Hearings Board or equivalent local hearings board has set forth in RCW 43.21B.

HOG FUEL BOILER - A boiler that utilizes wood, commonly called "hog fuel", as one source of fuel.

INCINERATORS - A furnace or facility for the destruction of waste by burning.

INPUT HEAT CAPACITY - Is the maximum actual or design heat capacity, whichever is greater, stated in BTU/hr. generated by source.

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

LAND CLEARING BURNING - Means the burning of outdoor fires over ten (l0) feet in diameter consisting of residue of a natural character such as trees, stumps, shrubbery or other natural vegetation in preparation of a land improvement or construction project as distinguished from a forest harvest operation.

LAND CLEARING OPERATION - The removal of trees, brush, grass and buildings for disposal on the site in preparation of a land improvement or construction project as distinguished from a forest harvest operation.

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

MERCURY - The element mercury, excluding any associated elements and includes mercury in particulates, vapors, aerosols, and compounds.

MERCURY ORE - A mineral mined specifically for its mercury content.

MERCURY CHLOR-ALKALI CELL - A device which is basically composed of an electrolyzer section and a denuder (decomposer) section and utilizes mercury to produce chlorine

gas, hydrogen gas, and alkali metal hydroxide.

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

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

NEW CONSTRUCTION - It shall be deemed new construction and new source standards shall apply when: (1) equipment and facilities are made and/or used for the first time at a specific location or site, or (2) existing equipment or facilities are modified or altered and the cost thereof is: (a) equal to 50% or greater of replacement cost or (b) less than 50% of replacement cost but may result in an increase in the total air contaminant emissions compared to the original or present emissions.

NEW SOURCE - (a) The construction or modification of a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emission of any air contaminant not previously emitted; and (b) Any other project that constitutes a new source under the Federal Clean Air Act.

NO BURN DAY - A day designated by the Control Officer, or other duly authorized person, on which, due to atmospheric, or other meteorological conditions, all outdoor fires are prohibited.

NON HIGHWAY MOBILE SOURCE - A source which is neither used on nor does ordinarily travel on the public roadways and is powered by an internal combustion or other type engine. These sources include, but are not limited to, farm tractors, bulldozers, earthmovers, ships, boats, railroad locomotives and non-commercial aircraft.

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

ODOR - That property or a substance which allows its detections by the sense of smell and/or taste.

OPACITY - Opacity means the degree to which an emission reduces the transmission of light and obscures the view of any object in the background.

ORDER OF APPROVAL OR APPROVAL ORDER - A regulatory order issued by the authority to approve the notice of construction application for a proposed new source or modification , or the replacement or substantial alteration of control technology at an existing stationary source.

OUTDOOR FIRE - A fire where any material is burned in the open, in receptable other than a furnace, incinerator, or other equipment connected to a stack or chimney.

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

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

PARTICULATE MATTER - Small discrete masses of liquid or solid, exclusive of uncombined water.

PATHOLOGICAL WASTE - Human and animal remains consisting of carcasses, organs and solid organic wastes, consisting of up to 85% moisture, 5% incombustible solids.

PERSON - Means and includes an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

PETROLEUM LIQUIDS - Petroleum condensate, and any finished intermediate product manufactured in a petroleum refinery but does not mean Number 2 through Number 6 fuel oils as specified in A.S.T.M. D396-69, gas turbine fuel oils Numbers 2-GT through 4-GT as specified in A.S.T.M. D2880-71, or diesel fuel oils Number 2-D and 4-D as specified in A.S.T.M. D975-68.

PLANT SOURCE - Any process or group of processes operated by an person at a single geographic location, regardless of the number of emission points, will constitute an emission as if they were from a single source.

PORTABLE EQUIPMENT - Equipment designated to be transported from place to place for temporary operation.

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

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

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

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

additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for any source or source category shall be adopted only after notice and opportunity for comment are afforded.

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

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

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

RESIDENTIAL BURNING - Means small outdoor fires, at a one or two family residence, consisting of leaves, clippings, pruning and other yard and gardening refuse originating on lands immediately adjacent and in close proximity to a human dwelling resulting from activities connected with said dwelling and burned on such lands by the property owner or his designee.

SMALL OUTDOOR FIRE - Means a fire in a pile no more than four (4) feet in diameter and three (3) feet in height.

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

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

STACK - Duct, chimney, flue, conduit, or opening arranged for the emission into the outdoor atmosphere of air contaminants.

STANDARD CONDITIONS - Standard Conditions (A) is a temperature of 60 degrees F and a pressure of 29.92 inches of mercury. Standard Conditions (B) is a temperature of 0 degrees C and 760 mm of mercury. Standard Conditions (C) is a temperature of 25 degrees C and 760 mm of mercury.

STANDARD CUBIC FOOT OF GAS - That amount of gas which would occupy a cube

having dimensions of one foot on each side, if the gas were free of water vapor at a pressure of 14.7 psia and a temperature of 60 degrees F.

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

STRAW - All vegetative material of agricultural origin other than seed removed by swathing, combining or cutting.

TON - Short ton or 2000 pounds.

TOTAL SUSPENDED PARTICULATE - Particulate matter as measured by the method described in 40 CFR Part 50 Appendix B as in effect on July 1, 1988.

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

TURF GRASSES - All blue grasses, fescues, and bentgrass planted for seed production.

UNAVOIDABLE ACCIDENT - A casualty or breakdown of process or control equipment which cannot be foreseen, with the possibility of it occurring being so remote that no special steps were or could be taken to prevent it.

U.S. ENVIRONMENTAL PROTECTION AGENCY - Shall be known as EPA in this Regulation.

WOOD WASTE BURNER - A sheet metal or other type of enclosure to form a truncated cone or a single chamber cylindrically shaped incinerator line or constructed of suitable refractory material which employs controlled fuel feed, tangential over fire and under fire air supply system, and is designed and used for the disposal of wood and bark wastes by incineration.
State effective: 11/13/94, EPA effective: 12/26/95

CONTROL PROCEDURES

SECTION 300 – NOTICE OF CONSTRUCTION WHEN REQUIRED

300.1 No person shall construct, install, establish, modify or alter an air contaminant source, except those sources excluded in Section 322 of the Regulation, without first filing with the Authority a "Notice of Construction and Application for Approval," on forms prepared and furnished by the Authority, obtaining written approval of the Board prior to the said construction, installation, modification, or establishment, and paying the appropriate fees as provided in Section 324.2. The Authority may only grant approval of the "Notice of Construction and Application for Approval" if the requirements of Sections 301 and 302 have been met.

300.2 A "Notice of Construction and Application for Approval" shall not be required to commence an alteration of equipment or control facility in the event of breakdown or if delaying

the alteration may endanger life or have other serious consequences. The authority shall be notified in writing of the alteration on the first working day after the alteration is commenced and a "Notice of Construction and Application for Approval" shall be filed within fourteen (14) days after the alteration is commenced.

300.3 A separate Notice and Application shall be submitted for each unit of equipment or control facility, unless identical units of equipment or control facility are to be installed, constructed or established in an identical manner on the same premises; provided that, said identical units may, as a group, be listed on one application but that identical units subsequently added shall require a separate Notice and Application; provided also, that, the owner has the option to give notice and apply for approval of a process with a detailed inventory of contaminant sources and emissions related to said process.

300.4 Where work for which a Notice of Construction is required, is commenced, or is performed prior to making application and receiving approval, the Control Officer may assess an investigation fee, in addition to the fees of Section 324.2. The investigation fee shall be assessed in an amount equal to three times the plan examination fees identified in Section 324.2. 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.
State effective: 11/13/94, EPA effective: 12/26/95

SECTION 301 - INFORMATION REQUIRED FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL, PUBLIC NOTICE, PUBLIC HEARING

301.1 Each Notice of Construction and Application for Approval for the construction, installation, or establishment of a new air contaminant source as described above shall be accompanied by a set of plans which show and describe the equipment and control facility, its location, and function.

301.2 The proposed means for the prevention or control of the emissions of air contaminants and will provide all known available and reasonable methods of emission control.

301.3 Each Notice of Construction and Application for Approval shall be signed by the applicant or owner who may be required to submit evidence of his authority.

301.4 The Board or Control Officer may, within 30 days of its receipt of such notice, request such other information as deemed necessary in order to determine whether the proposed construction, installation or establishment, will be in accordance with applicable rules now or hereafter adopted by the Board or the WDOE and will provide all known, available and reasonable methods of emission control.

301.5 A completed State Environment Policy Act Guidelines "Environmental Checklist" shall be submitted on forms provided by the Authority in accordance with Washington Administrative Code (WAC) 197.10.365 and Section 312 of this regulation, as a part of the required Notice of Construction and Application for Approval.

301.6 The Authority shall provide public notice prior to approval or denial of a Notice of Construction if a new or modified source will result in a significant emissions increase as defined by WAC 173-400-030(67). The public notice shall provide for a thirty day period to receive written comments. No final decision on any Notice of Construction and Application for Approval until the comment period has ended and all comments have been considered.

301.7 The applicant, any interested governmental entity, any group, or any person may request a public hearing within the thirty day period required by 301.6. Any request shall indicate the interest of the entity filing if and why a hearing is warranted. The NWAPA may, in its discretion, hold a public hearing if it determines significant public interest exists.
State effective: 11/13/94, EPA effective: 12/26/95

SECTION 302 - ISSUANCE OF APPROVAL OR ORDER

302.1 If on basis of plans, specifications, or other information required pursuant to Section 301, the Board determines that the proposed construction, installation or establishment will be in accord with this Regulation, applicable air pollution control regulations of the DOE, laws of the State of Washington, and will provide all known available and reasonable methods of emission control, it shall, within thirty (30) days issue a determination of whether the operation of the new air contaminant source at the location proposed will cause any ambient air quality standard to be exceeded.

302.2 No approval will be issued unless the information supplied as required by Section 301.1 of this Regulation provides evidence to the Board or Control Officer that:

302.21 The equipment is designed and will be installed to operate without causing a violation of applicable emission standards.

302.22 The equipment incorporates advances in the art of air pollution control developed for the kind and amount of air contaminant emitted by the equipment.

302.23 The project shall employ all known, available, and reasonable air pollution control technology for all pollutants (BACT).

302.24 The project shall not result in a violation of any ambient air quality standard for criteria air pollutants.

302.25 The project shall not impact any Class I area or non-attainment area.

302.26 All State Environmental Policy Act requirements have been fulfilled.

302.27 The project shall comply with all applicable federally mandated programs.

302.3 If the board determines that all the requirements of Section 302.2 have been met an Order of Approval shall be issued along with any operating and reporting conditions that will ensure compliance with all applicable air pollution standards. It shall be unlawful for an operator of a source to not abide by the operating and reporting conditions in the Order of Approval.

302.4 If the Board determines that the construction, installation or establishment of a new air contaminant source will not meet the emission standards or the ambient air standards or other prohibition established by this Regulation, or will not provide all known available and reasonable means of emission control, the Board shall, within sixty (60) days of receipt of the "Notice of Construction and Application for Approval", issue an Order under Section 121 for the prevention of the construction, installation or establishment of the air contaminant source or sources, and,

302.41 The Order shall be in writing;

302.42 The Order shall set forth the objections in detail with references to the specific provisions of this Regulation and/or with other applicable rules and regulations set forth in the WAC and laws of the State of Washington and emission standards that will not be met by the proposed construction, installation or establishment;

302.43 The Order shall be signed by the Chairman of the Board.

302.5 Any order issued pursuant to this Section shall become final unless, no later than fifteen (15) days after the date the Order is served pursuant to Section 121, the owner or applicant petitions for a reconsideration of the Order with reasons for the reconsideration.

302.52 If the petition of the owner or applicant be disapproved the owner or applicant may petitio the Hearings Board within (30) days after receipt of Notice of Disapproval and proceed under the procedure as set forth in Section 122.

302.6 Failure to issue such an order or approval within the time prescribed herein shall be deemed a determination that the construction, installation or establishment may proceed, provided that it is in accordance with the plans, specifications or other information, if any, required to be submitted. Such failure, however, shall not relieve any person from his obligation to comply with any emission requirement, or with any other provision of law.

302.7 Any Order of Approval issued under this Section shall be valid for one year. If engineering and/or construction of any facility authorized under this Section has not commenced within one year from the date of approval the Notice and Application is revoked and considered void. If the applicant can show evidence that the magnitude of the construction project is such or delays have been encountered in the delivery of equipment that construction cannot proceed within the one year limit, the Board may extend, for up to one year, the time limit set under this Section, if it is determined that the project still incorporates all known, available and reasonable air pollution control technology.

State effective: 11/13/94, EPA effective: 12/26/95

SECTION 303 - NOTICE OF COMPLETION - NOTICE OF VIOLATION

303.1 The owner or applicant shall notify the Board or Control Officer when construction, installation or establishment is substantially complete and all air pollution control facilities have been installed and the date upon which operation will commence. The Board or Control Officer shall, within thirty days of receipt of notice of completion, inspect the construction, installation, or establishment, and the Board or Control Officer may issue a Notice o Violation if he finds that

the construction, installation, or establishment is not in accord with the plans, specifications, or other information submitted to the Authority, and will be in violation of the emission standards in existence at the date the Order was issued.

303.2 Upon receipt of a Notice of Violation, the owner may appeal said Order in accordance with the provisions and procedures of Section 122.

303.3 The issuance of approval as provided by this Section of this Regulation shall not relieve the owner of the obligation to comply with the emission standards as adopted by this Authority or prevent the Board or Control Officer from issuing such orders or violations as provided by Section 302.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 310 - APPROVAL TO OPERATE REQUIRED

310.1 Before any article, machine, equipment, facility or other contrivance, the use of which may cause emission of air contaminants, may be operated or used, it must first be registered with this Authority under this Section and written approval to operate secured from the Control Officer, unless specifically excluded by Section 322. If at the end of not more than one year of operation of said air contaminant emission source, the source meets the emission requirements of this Regulation, then the emission source will be registered under Section 320.

310.2 In lieu of a formal registration, any person operating a registerable air contaminant source within the jurisdiction of the Authority for more than thirty (30) days, but less than two (2) years, may be issued a Certificate of Approval to Operate by the Control Officer. Provided: that the Certificate of Approval to Operate must be renewed annually.

310.3 Any Registration, Certificate of Approval to Operate or Approval of Construction is subject to review at the end of one year of operation of the facility. If in that time, the facility or item which was approved has not been implemented or other action taken towards operation and/or completion of the project, any registration, Certificate of Approval to Operate or approval of Construction is revoked except as otherwise provided in Section 302. The owner or applicant may refile at any time under the provisions of this Section.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 320 – REGISTRATION REQUIRED

320.1 All existing air contaminant sources within the jurisdiction of the Authority except any of the air contaminant sources which are listed in Section 322, which is attached hereto and made a part hereof, as now constituted or as hereafter amended shall be registered by the Authority.

320.2 All new air contaminant sources within the jurisdiction of the Authority shall be registered by the Authority within one year of the beginning of operation except as provided for in Section 310.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 321 –GENERAL REQUIREMENTS FOR REGISTRATION

321.1 Registration shall include the following procedures. Any person operating or responsible for the operation of an air contaminant source that requires registration shall make reports containing information as may be required concerning location, size and height of contaminant outlets, processes employed, nature of contaminant emission and such other information as is relevant to air pollution and available or reasonably capable or being assembled. The owner or agent of the source shall, upon request, submit the required information.

321.2 A separate registration shall be required for each source of contaminant; provided that, an owner need not have a separate registration for identical units of equipment or control facility installed, altered or operated in an identical manner on the same process.

321.3 Any registered source which ceases to operate any air contaminant source for one (1) year or more or said source leaves the jurisdiction of the Authority, the source shall be considered a new source and shall submit a Notice of Construction and Application for Approval and receive approval from the Board prior to resumption of operation or re-entry into the jurisdiction of the Authority. Provided, however, that those registered sources specifically designed and approved by the Control Officer as part of their original "Notice of Construction and Application for Approval" shall be exempt from this subsection.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 322 - EXEMPTIONS FROM REGISTRATION

Exclusion from registration does not absolve the owner, lessee, or his registered agent from all other requirements of the Regulation of this Authority. Exemption from registration does not apply to any control facility or device required to be installed in order to meet the emission and/or ambient standards of this Regulation.

322.1 Air conditioning or ventilating systems not designed to remove air contaminants generated by or released from equipment.

322.2 Asphalt laying equipment.

322.3 Atmosphere generators used in connection with metal heat treating processes.

322.4 Blast cleaning equipment which uses a suspension of abrasive in liquid water.

322.5 Fuel burning equipment, other than smoke house generators, which:

322.51 Is used solely for a private dwelling serving less than five families;

322.52 Has a BTU input of not more than 400,000 BTU/hour, provided that equipment burning natural gas or liquified petroleum gas (LPG) exclusively may excluded up to

2,5000,000 BTU/hour.

322.53 If used oil is burned the maximum heat input shall be less than 0.4 million BTU per hour (0.5 GJ/hr) provided that:

a. The used oil burned is either generated on site or received from do-it-yourself oil changers; and

b. The used oil burned is not contaminated with added dangerous wastes.

322.6 Insecticide spray equipment, non commercial.

322.7 Laboratory equipment used exclusively for chemical or physical analyses.

322.8 Laundry driers, extractors or tumblers used exclusively for the removal of water from fabric.

322.9 Portable equipment which is used within the jurisdiction of the Authority for less than thirty (30) days, except asphalt plants, rock crushers, and sand blasting operations.

322.10 Sewing equipment.

322.11 Surface coating by use of aqueous solution or suspension.

322.12 Steam cleaning equipment used exclusively for that purpose.

322.13 Storage tanks, reservoirs, or containers:

322.131 Of a capacity of 6,000 gallons or less used for organic substances unless, in the opinion of the Control Officer, Section 535 may be violated.

322.132 Of a capacity of 40,000 gallons or less used for liquid fuels including gasoline and lubricating oils.

322.133 Containing organic liquid mixtures whose True Vapor Pressure is equal to or less than 1.5 psia under actual storage conditions.

322.134 Containing liquids which are not vented to the atmosphere.

322.14 Vacuum producing devices used in laboratory operations, and vacuum producing devices which do not remove or convey air contaminants from one to another source.

322.15 Vents used exclusively for:

322.151 Sanitary or storm drainage systems.

322.152 Safety valves.

322.153 Storage tanks.

322.16 Washing or drying equipment used for products fabricated from metal or glass, if no volatile organic material is used in the process.

322.17 Welding, brazing and soldering equipment unless the person operating such equipment otherwise qualifies for registration.

322.18 Restaurants and other retail food preparing establishments.

322.19 Piping modifications on existing process units that result in increases in fugitive hydrocarbon emissions of less than 2.0 tons per year.

322.20 New emission units or activities with emissions below the following threshold levels:

(a) 5 tons per year of carbon monoxide;
(b) 2 tons per year of nitrogen oxides;
(c) 2 tons per year of sulfur oxides;
(d) 2 tons per year of volatile organic compounds (VOC);
(e) 0.75 tons per year of PM-10 (as defined in WAC Chapter 173-400-030(53)
(f) 0.03 tons per year of lead;
(g) Threshold levels for Hazardous Air Pollutants as defined in WAC Chapter 173-401-531.

State effective: 11/13/94, EPA effective: 12/26/95

SECTION 323 - CLASSES OF REGISTRATION

323.1 All air contaminant sources registered by this Authority shall be classified in one of the following classes based upon uncontrolled emissions of air contaminants to the atmosphere.

323.11 CLASS A - All air contaminant sources with potential uncontrolled annual emissions usually in excess of 50 tons/year shall be classified as CLASS A sources. The registration of all CLASS A sources is subject to review annually.

323.12 CLASS B - All air contaminant sources with potential uncontrolled annual emissions usually between 10 and 50 tons/year shall be classified as CLASS B sources. The registration of all CLASS B sources will be subject to review at the discretion of the Control Officer.

323.13 CLASS C - All air contaminant sources with potential uncontrolled annual emissions usually less than 10 tons/year shall be classified as CLASS C sources. The registration of 11 CLASS C sources will be subject to review at the discretion of the Control Officer.

323.14 SPECIAL CLASS D - All sources which in and of themselves are not air

contaminant sources per se, but distribute, sell or make available for sale to the general public or other dealers within the jurisdiction of the Authority, solid, liquid, or gaseous fuel (which create emission to the atmosphere) shall be classified as CLASS D sources. ALL CLASS D sources may be required to submit an annual report of the type and quantity of fuel sold on forms provided by the Control Officer at a time selected by the Control Officer.

323.15 CLASS G - All gasoline stations installed or reconstructed after January 1, 1990 and all gasoline stations with a total annual gasoline throughput greater than one million three hundred twenty-five thousand liters (350,000 gallons)

323.16 SPECIAL CLASS I - All incinerators approved by the Authority under Section 510 and not Classified in CLASS A or B herein shall be classified as a CLASS I source. This class also includes wood waste burners under Section 458 and other incinerators which may come under the Regulation of this Authority. ALL CLASS I sources will be subject to review at the discretion of the Control Officer.

323.17 SPECIAL CLASS O - All air contaminant sources whether or not they would be otherwise classified under this Regulation which have an actual or potential odor problem associated with their operation may be classified as a CLASS O source. ALL CLASS O sources will be subject to review at the discretion of the Control Officer.

323.18 SPECIAL CLASS S - All air contaminant sources which are unique and because of special circumstances cannot be adequately classified elsewhere shall be classified as CLASS S sources. ALL CLASS S sources are subject to review at the discretion of the Control Officer.

323.19 CLASS T - All air contaminants sources with potential uncontrolled annual emissions usually less than 10 tons/year of any compound listed in WAC 173-460 Sections 150 and 160, or CAA Section 112 (b), shall be classified as T sources. The registration of all CLASS T sources will be subject to review at the discretion of the Control Officer.

323.2 Any registered source which is classified in CLASS A, B, or C under this Regulation may petition the Control Officer for a change in registration classification to a lower class under the following conditions:

323.21 The registrants shall show that the lower classification is more applicable to their particular situation and that they consistently meet the emission and ambient air standards and any other prohibitions and requirements for their new class.

323.22 The registrants shall control their emissions in accordance with this regulation.

323.3 Intermittent sources which vary in total emissions proportionately according to the amount of time they operate annually shall be extrapolated and their classification determined on

their estimated rate of annual emissions as if they were operating on a full time basis throughout the year.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 324 – FEES

324.1 Annual Registration Fees. Before the Control Officer may register any article, machine, equipment, facility, control facility, or other contrivance, the use of which is likely to cause the emission of air contaminants or a variance be granted and under the jurisdiction of this Authority, an annual registration fee shall be paid to the Authority at a time and in such a manner as herein set forth and as may be determined by the Board.

324.11 Sources classified as class "A", Class "B", Class "G", Class "I", Class "O" and Class "T" as defined in Section 323, and holders of each Variance issued by NWAPA, shall, upon notification by the Control Officer, pay the Authority an annual registration fee on or before January 1 of each year in accordance with the following schedule except that any new source which has paid a Notice of Construction filing fee and plan, examination and inspection fee shall not be required to pay an additional registration fee during that same calendar year.

324.111 All Class "A" Registered Sources

Standard Industrial Classification Number (SIC)	**Type**	**Annual Registration Fee**
2911	Petroleum Refinery	$6,000
2999	Petroleum Coke Calciner	$3,000
3241	Cement Manufacturing	$3,000
3334	Primary Production of Aluminum	$3,000
2611	Pulp & Paper Mills	$3,000
2819	Sulfuric Acid Manufacturing	$2,750
2812	Alkalies & Chlorine Manufacturing	$2,200
2430	Veneer Plywood Manufacturing	$1,500
3323	Iron & Steel Foundries	$4,000
3295	Olivine Rock Processing	$1,500
4953	Refuse Incineration Facilities	$3,000

2818	Chemical Processing Plants	$2,500
9711	National Security Establishments	$2,500
4911	Coal Fired Power Plants	$6,000
	Cogeneration Plants	
4911	Peak Load	$2,000
4911	Base Load	$4,000
4923	Pipeline Compressors	$1,500
--------	Any other Type Not Listed	$1,500

324.112 All Class "B" Registered Sources $400

324.113 All Class "O" Registered Sources $400

324.114 All Class "I" Registered Sources with combustion rate in lbs/hour:

324.1141 50 or less lbs/hour of any waste materials $150
324.1142 51 to 100 lbs/hour of any waste materials $250
324.1143 101 - 999 lbs/hour of any waste materials $500

324.115 All other classes of registered sources shall pay a one time registration fee at the time of registration. $100

324.116 Holders of each Variance issued by the Authority under Section 350 of this Regulation (Annual Fee) $500

324.117 The annual registration fee of a facility that includes more than one air contaminant source classified as Class "A", Class "B", Class "C", Class "G", Class "I", or Class "T" at the same general location and under the same manager, shall pay the full fee for the primary source, as determined by the Control Officer, and fifty percent (50%) of the fee for each of the other sources subject to an annual registration fee.

324.118 All Class "G" Registered Sources $100

324.119 All Class "T" Registered Sources $100

324.120 The Authority shall collect interim fees to cover operating permit program development costs. The fees will be assessed to all sources in the jurisdiction that emit one hundred tons or more of a regulated pollutant. A regulated pollutant is defined in Section 502 (b) of the Federal Clean Air Act

Amendments of 1990. Fees shall be based on emissions determined in the most recent emissions inventory. The costs shall be determined by a workload analysis done by the Authority and approved by the Board. The fees shall be collected beginning fiscal year 1994.

~~**324.121** Commencing with the effective date of the operating permit program the Authority shall assess and collect annual air operating permit fees in it's jurisdiction for any source specified in section 7661 (a) of Title V of the Federal Clean Air Act (FCAA) or WAC 173-401-300 (excluding sources regulated by the Washington State Department of Ecology Industrial Section). The total fees required by the NWAPA to administer the program shall be determined by a workload analysis conducted by the staff and approved annually by resolution by the Board of Directors in a public hearing. Allocation of the fees to individual affected sources shall be based on the following:~~

~~a. Twenty percent of the total fees shall be allocated equally among all affected sources.~~

~~b. Eighty percent of the total fees shall be allocated based on actual emissions of regulated pollutants identified in the most recent annual emission inventory, or potential emissions if actual data are unavailable. A Regulated pollutant for fee calculation shall include:~~

~~Nitrogen oxides~~
~~Volatile organic compounds~~
~~Particulate matter with an aerodynamic particle diameter less than or equal to 10μ (PM-10)~~
~~Sulfur dioxide~~
~~Lead~~
~~Any pollutant subject to the requirements under Section 112 (b) of the FCAA not included in any of the above categories.~~

324.122 Upon assessment by the Authority, fees are due and payable and shall be deemed delinquent if not fully paid within 90 days. Any source that fails to pay a fee imposed under Section 324 within 90 days of the due date shall be assessed a late penalty in the amount of 50 percent of the fee. This late penalty shall be in addition to the fee assessed under Section 324.

324.2 Notice of Construction, Variance Filing, Plan Examination, evaluation and/or inspection fee. The following fees shall be paid by an applicant for processing a Notice of Construction and Application for Approval, pursuant to Section 300.1 or a Variance pursuant to Section 350, before the Board will take any action approving or denying said application.

324.21 A $100.00 filing fee and in addition, the plan examination and inspection fee set forth in Section 324.22. One filing fee and plan examination, evaluation and inspection fee shall be paid for identical units, except when a separate examination, evaluation or inspection is required for each identical unit.

324.22 Item - Plan, Examination, Evaluation, and Inspection Fee

324.221

Fuel burning equipment in million BTU/HR Input Heat Capacity	Installation	Fuel Change
Less than 5	$150	$50
5 or more but less than 10	$400	$100
10 or more but less than 20	$750	$200
20 or more but less than 50	$1,500	$400
50 or more but less than 100	$4,000	$750
100 or more but less than 250	$10,000	$1,000
250 or more but less than 500	$15,000	$3,000
More than 500	$20,000	$5,000

324.222 Other in Cubic Feet Per Minute (CFM-Design) from equipment, such as, but not limited to, cyclones, bag filters, electrostatic precipitators and wet scrubber.

Less than 5,000	$200
5,000 or more but less than 20,000	$400
20,001 or more but less than 50,000	$1,000
50,001 or more but less than 100,000	$2,000
100,001 or more	$5,000

324.223 Incinerators - Combustion rate in lbs/hours (Design)

Refuse Incinerator - lbs/hour	
500 lb/hour or less	$1,000
500 or more but less than 1,000	$3,000
Solid Waste Combustion - tons/day	
250 or less	$20,000
greater than 250	$40,000

324.224 Storage Tanks - Gallons

6,000 or more but less than 40,000	$200

40,000 or more but less than 100,000	$400
100,000 or more but less than 500,000	$750
500,000 or more	$1,200

324.225 Other -

Gasoline Stations	$100
Odor Source	$500
Not Classified above	$200

324.226 Air Toxics Screening $200

324.227 Order of Approval Modification 25% of Original permit fee

324.228 Public Hearing for Order of Approval $500

324.229 Voluntary Emission Reduction (WAC 173-400-091) $100

324.23 Environmental Policy Guidelines

324.231 Threshold Determination. For every environmental checklist the NWAPA reviews when it is Lead Agency, the applicant shall first pay NWAPA a fee of $100.00 prior to undertaking the Threshold Determination by the responsible official of NWAPA

324.232 If the Authority decides it must prepare an Environmental Impact Statement (EIS) in order to comply with the State Environmental Policy Act of 1971 before taking any action on a Notice of Construction, the cost of preparing, publishing, and distributing an EIS at a cost per hour rate for Authority staff time based upon actual cost as determined by the Control Officer and such other expenses as mutually agreed upon by the applicant and the Control Officer including consulting services, testing, reproduction, distributing, etc., shall be paid by the applicant.

324.24 Should a public hearing or public notice be required or deemed necessary by the Board on any proposed action by an applicant, said applicant shall reimburse the Authority for the actual publication cost of any required legal notice of such public hearing.

324.25 "Bubble" and "Emission Reduction Credit"

A $250.00 application and processing fee shall be paid for each application for a "Bubble" made pursuant to RCW 70.94.155 and WAC 173-403-060, and an "Emission Reduction Credit" (ERC) made pursuant to WAC 173-403-070.

State effective: 11/13/94, EPA effective: 12/26/95

SECTION 325 - TRANSFER

325.1 A registration, approval to construct, operate or use any article, machine, equipment, facility or other contrivance, the use of which may cause emission of air contaminants, shall not be transferable, whether by operation of law or otherwise, either from one location to another, from one piece of equipment to another, or from one person to another. Provided that, registered sources which are designed to be portable from one location to another may retain the same registration so long as they remain within the jurisdiction of the authority.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 340 - REPORT OF BREAKDOWN AND UPSET

340.1 If a breakdown or upset condition occurs which results in or may have resulted in the emission and/or ambient air quality standard established by the Regulation of this Authority being exceeded, the owner or operator of the source shall take the following actions:

> **340.11** The upset or breakdown shall be reported as promptly as possible and in no event later than twelve (12) hours to the Authority.
>
> **340.12** The person responsible shall, upon the request of the Control Officer, submit a full report within ten (10) days including the known causes, corrective measures taken, and preventive measures to be taken to minimize or eliminate a recurrence.

340.2 Compliance with the requirements of this section does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of this Regulation nor from the resulting liabilities for failure to comply.

340.3 It shall be prima facie evidence of violation of this Regulation if any control equipment or other equipment creating emissions to the atmosphere is turned off, broken down or otherwise inoperative, and a notice of breakdown has not been filed under Section 340.1.
State effective: 11/13/94, EPA effective: 12/26/95

SECTION 341 - SCHEDULE REPORT OF SHUTDOWN OR STARTUP

341.1 If the operator of any air contaminant source registered or operating under a Certificate of Approval to Operate, issued by the Authority, schedules a total or partial shutdown or startup of control or process equipment which may result in emissions or any additional emissions to the atmosphere which may temporarily exceed the emission standards of this Regulation; the operator or owner of the source shall notify the Authority prior to the shutdown or startup.

341.2 Prompt notification shall be made and in no event less than twenty-four (24) hours before the scheduled shutdown or startup. The operator or owner of the source shall submit a general schedule of steps to be taken to minimize the release of air contaminants to the atmosphere including the reasons for and duration of the proposed shutdown or startup, the nature of the action to be taken, the date and time for the action and an estimate of the anticipated rate and

concentration of emission.

341.3 Compliance with the requirements of this section does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with the requirements of this Regulation nor from the resulting liabilities for failure to comply.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 342 - OPERATION AND MAINTENANCE

342.1 All air contaminant sources are required to keep any process and/or air pollution control equipment in good operating condition and repair. If a breakdown or upset condition occurs and it is determined by the Control Officer to be due to poor operating and maintenance procedures, the Control Officer may take any legal steps necessary to prevent a recurrence of the breakdown or upset condition.

342.2 Operation and maintenance instructions and schedules for process and/or control equipment must be available and may be required to be posted on the site. This section is specifically applicable to the operation of equipment where untrained personnel may operate or otherwise have access to or use the equipment.

342.3 If a breakdown or violation occurs and is due to the improper operation or maintenance of equipment, the owner or operator of the source will, in addition to filing a report of breakdown under Section 340, submit a report if requested by the Control Officer on what measures will be taken in training or re-orienting personnel to prevent a recurrence of the breakdown.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 360 - TESTING AND SAMPLING

360.1 Any person operating or using any article, machine, equipment or other contrivance for which this Regulation requires registration shall provide and maintain such sampling and testing facilities as specified in the approval to construct or the registration to operate.

360.2 Before an approval to construct or a registration or certificate to operate is granted, the Control Officer may require the owner or applicant to provide and maintain such facilities as are necessary for sampling and testing purposes and perform such tests as are necessary in order to secure information that will disclose the nature, extent, quality or degree of air contaminants discharged into the atmosphere from the article, machine, equipment or other contrivance described in the notice of construction, or application for registration or certificate to operate. In the event of such a requirement, the Control Officer shall notify the applicant in writing of the required size, number and location of sampling ports; the size and location of the sampling platform, and the utilities for operating the sampling and testing equipment and the tests to be performed. The platform, access and utilities shall be constructed and maintained in accordance with the rules and Regulations of the State Department of Labor and Industries and other applicable State and Local Regulations, rules and ordinances.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 365 - MONITORING

365.1 Any person operating a registered air contaminant source or a certificate to operate may, at any time, be required to monitor the ambient air, process emissions or conduct emission tests as deemed necessary by the Control Officer under the following provisions:

365.11 The Board or Control Officer may require any person operating any source to conduct a monitoring program on site or adjacent off site for emissions, ambient air concentrations or any other pertinent special studies deemed necessary.

365.12 All monitoring data shall be submitted in a form which the Board or Control Officer may require. Averaging time and collection periods will be determined by the Control Officer. Failure to record and/or report data as specified in the "Guidelines for Industrial Monitoring Equipment and Data Handling" may be cause for a Notice of Violation to be issued.

365.13 All data and records shall be kept for a period of at least one year and made available to the Control Officer upon request.

365.14 All instruments used to monitor compliance or for special studies must meet appropriate EPA performance specifications (40 CFR 60, Appendix B) and shall be calibrated and maintained in accordance with the “Guidelines for Industrial Monitoring Equipment and Data Handling”procedures approved by the Control Officer.

365.15 The Control Officer may take such samples and make any tests and investigations deemed necessary to determine the accuracy of the monitoring reports and tests submitted to the Authority, and evaluate the validity of the data. The owner or operator may also be required by the Control Officer to take a sample using an approved procedure and submit the results thereof within a reasonable period of time.

365.16 The Board or the Control Officer may require additional reasonable monitoring be undertaken at any appropriate time to insure compliance with this Regulation.

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 366 - INSTRUMENT CALIBRATION

366.1 Any person operating an ambient air or emission monitoring instrument may be required to calibrate said instrument as required by the Control Officer under the following provisions:

366.11 All monitors must be accurate within the limits and tolerances described in Table I of this subsection when compared to an Authority maintained and calibrated instrument or standard, which measures the same pollutant.

366.12 All monitoring instruments must be operated, maintained and calibrated as specified in the "Guidelines for Industrial Monitoring Equipment and Data Handling"

and/or specific operating and maintenance procedures issued or approved by the Control Officer.

366.13 The Authority may, at any time, require that any monitoring instrument be compared to the Authority's instrument or other standard approved by the Control Officer.

366.14 If a monitoring instrument is not within the acceptable limits and tolerances, as described in Table I of this subsection, all data collected by the instrument between the date of calibration and the previous date of calibration may be considered invalid and a Notice of Violation may be issued. If evidence shows when and where an instrument exceeded the limits and tolerances established in Table I, the Control Officer may accept data collected prior to that date. No data will be accepted as valid until the user instrument is calibrated successfully as provided in 366.ll and 366.l2 of this subsection.

366.15 An audit of a monitoring system may be conducted by the Authority, at any time, without prior notification.

366.16 All user instruments will be operated and calibrated on a scale range approved by the Control Officer. No data will be accepted from instruments on scale ranges other than those approved by the Control Officer. Provided: that, data from instruments that have automatic range change devices may be accepted if the user can demonstrate that the values obtained are within the tolerances provided in Table I. All tolerances will be based on the scale designated by the Control Officer as the primary or base scale.

TABLE I

POLLUTANT	INSTRUMENT TOLERANCE
Sulfur Dioxide	(Whichever is greater ambient) +/- 0.005 ppm or +/- 10%
Total Suspended Particulate	Flow Rate of 1.13 -1.70 m3/min. +/- l0% (percent difference)
Continuous Emission Monitoring Systems	
Calibration Drift Values	
Pollutant Diluent	Twice the applicable drift specified in Appendix B, 40 CFR 60
Opacity	± 2% opacity
Audit Performance Criteria	
Cylinder Gas Audit (CGA)	±15%

Relative Accuracy Audit (RAA)	Whichever is greater +/- 15% or 7.5% of Standard
Relative Accuracy Test Audit (RATA)	Whichever is greater </- 20% or 10% of Standard.

State effective: 9/8/93, EPA effective: 4/24/95

STANDARDS

SECTION 400 - AMBIENT AIR STANDARDS - FORWARD

400.1 In the interest of the people within the jurisdiction of the Authority, it is the objective of the NWAPA to obtain and maintain the cleanest air possible, consistent with the highest and best practicable control technology.

400.2 In the areas where existing concentrations of air contaminants are lower than concentrations allowed by the standards enumerated below, degradation of the atmosphere should be minimized. The highest and best practicable control technology should be applied to all sources unless it is specifically determined that lesser technology is justified. Ambient air standards are set at levels which, according to latest knowledge, will not cause damage to health, plants or animals or degrade materials.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 401 - SUSPENDED PARTICULATE STANDARDS (PM-10)

401.1 The concentration in the ambient air of particulate matter with an aerodynamic diameter of less than ten (10) microns (PM10) shall not exceed:

401.11 One hundred and fifty (150) micrograms per cubic meter of air as a 24 hour average more than once a year.

401.12 Fifty (50) micrograms per cubic meter of air as an annual arithmetic mean.

401.2 Sampling and analysis for suspended particulates shall be conducted according to the method outlined in Section 180.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 410 - SULFUR OXIDE STANDARDS

410.1 It shall be unlawful for any person to cause or permit sulfur oxides to be emitted into the ambient air, calculated as sulfur dioxide, measured at an ambient air monitoring station averaged over the specified time periods to exceed:

410.11 2096 micrograms per cubic meter (eight-tenths (0.800) ppm by volume) for any five (5) minute average, not to be exceeded more than once per year.

410.12 1048 micrograms per cubic meter (four-tenths (0.400) ppm by volume) average for any one (1) hour not to be exceeded more than once per year.

410.13 655 micrograms per cubic meter (twenty-five one hundredths (0.250) ppm by volume) average for any one (1) hour not to be exceeded more than two (2) times in any consecutive seven (7) days.

410.14 260 micrograms per cubic meter (one-tenth (0.100) ppm by volume) average for any one day (24 hours), not to be exceeded more than once per year.

410.15 53 micrograms per cubic meter (two-one hundredths (0.020) ppm by volume) average for any one (1) year (annual arithmetic mean).

410.2 Sampling and analysis to determine compliance with this Regulation shall be as outlined in Section 180 or equivalent as approved by the Control Officer or the WDOE.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 420 - CARBON MONOXIDE STANDARDS

420.1 Carbon monoxide measured at an ambient air monitoring station shall not exceed:

420.11 10 milligrams per cubic meter (9.0 ppm) eight (8) hour average concentration more than once per year at any location where people would be exposed to such concentration for eight (8) hours or more.

420.12 40 milligrams per cubic meter (35.0 ppm) one (1) hour average concentration more than once per year.

420.2 Sampling and analysis to determine compliance with this Section shall be as outlined in Section 180 or equivalent as determined by the Control Officer.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 422 - NITROGEN OXIDE STANDARDS

422.1 Nitrogen Dioxide. The annual arithmetic means of nitrogen dioxide measured at an ambient air monitoring station shall not exceed: 100 micrograms per cubic meter (0.050 ppm).

422.2 Sampling and analysis for nitrogen oxides shall be as outlined in Section 180.
State effective: 9/8/93, EPA effective: 4/24/95

SECTION 424 - OZONE STANDARD

424.1 Ozone measured at an ambient air monitoring station shall not exceed 0.120 ppm (235 milligrams per cubic meter) hourly concentration on more than one (1) day per calendar year as determined under the following conditions:

424.11 Three (3) calendar years of data shall be used in determining compliance with this standard. If three (3) calendar years of data are not available, a minimum of one (1) calendar year must be used and;

424.12 All hourly measurements must start on the clock hour.

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 450 - EMISSION STANDARDS - FOREWORD

450.1 The Authority recognizes the need for accurate source air contaminant data when attempting to correlate ground level concentrations with source emissions or when calculating the expected ground level concentrations.

450.2 Since accurate determination of the required data is a complex process, procedures for obtaining such data should be developed from the emission regulation set forth herein.

450.3 In exercising judgement regarding possible ground level concentrations from stack emission data, three desirable elements are:

450.31 Source emission rate data obtained by actual measurement.

450.32 A mathematical model of the community diffusion situation.

450.33 Values for parameters of the model.

450.4 The Authority may develop emission standards for pollutants presently not being emitted in the area of jurisdiction to serve as guides for industries considering locating here. These are to be based on the best control experience elsewhere in the nation and consistent with latest technological achievements.

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 451 - EMISSION OF AIR CONTAMINANT - VISUAL STANDARD

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

451.11 When the owner or operator of a source supplies valid data to show that the opacity is in excess of 20% as a result of the presence of condensed water droplets, and that the concentration of the particulate matter, as shown by a source test approved by the Control Officer, is less than 0.10 (0.23 g/m3) grain/dscf.

451.12 When an emission occurs due to soot blowing and/or grate cleaning for not more than 15 minutes in any 8 hours period provided a continuous opacity measuring system and recorder is installed, and operated as required and approved by the Control Officer to

record said emissions, or the owner or operator of the source can demonstrate to the satisfaction of the Control Officer, by some other means of record, that the limitations of this Section will not be exceeded.

451.13 Emissions from a wood waste burner during:

451.131 One startup period not to exceed 30 consecutive minutes in any consecutive 24 hour period.

451.132 Thirty consecutive minutes in any 8 hour period during break and lunch periods, provided that the emissions do not exceed 60% opacity for a period of more than 6 consecutive minutes. Provided further, that the operator takes immediate action to correct the condition.

451.14 Emissions from existing petroleum catalytic cracking units shall not exceed 40% opacity for more than an aggregate of 6 minutes in any 1 hour.

State effective: 11/13/94, EPA effective: 12/26/95

SECTION 452 - MOTOR VEHICLE VISUAL STANDARDS

452.1 No motor vehicle first sold and registered as a new motor vehicle on or after January 1, 1971 shall discharge into the atmosphere, off the public roadways, at elevations of less than three thousand feet, any air contaminant for a period of more than ten seconds which is in excess of 20% opacity.

452.2 No non-highway mobile source manufactured, or registered or licensed, if applicable, after January 1, 1971 as a new source shall discharge into the atmosphere any air contaminant in excess of the requirements of 452.1.

452.3 No motor vehicle first sold and registered prior to January 1 1971 shall discharge into the atmosphere off the public roadways at elevations of less than three thousand feet any air contaminant for a period of more than ten seconds which is in excess of 40% opacity.

452.4 No non-highway mobile source manufactured or registered or licensed prior to January 1, 1971 shall discharge into the atmosphere any air contaminant in excess of the requirements of 452.3.

~~**452.5** No registered motor vehicle or non-highway mobile source, as applicable in this Section, shall emit smoke in excess of the requirements of 452.3 for more than six (6) minutes while stationary or emit offensive odors or create a nuisance.~~

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 455 - EMISSION OF PARTICULATE MATTER

455.1 No person shall cause or permit emission of particulate matter in excess of 0.10 grain/dry standard cubic foot (dscf) (0.23 g/m3) (combustion emissions shall be corrected to 7% O2)

except:

455.11 From all gaseous and distillate fuel burning equipment, emissions shall not exceed 0.05 grain/dscf (0.11 g/m3) corrected to 7% oxygen.

455.12 From existing sources utilizing combustion of wood for the production of steam, no person shall allow or permit emission of particulate matter in excess of 0.20 grain/dscf (0.46 g/m3) corrected to 7% oxygen, as measured by procedures specified by the Control Officer.

455.13 From all existing petroleum catalytic cracking units emissions shall not exceed 0.20 grain/dscf (0.46 g/m3) of exhaust gas as corrected to 7% oxygen.

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

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

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 458 - INCINERATORS - WOOD WASTE BURNERS

458.1 All wood waste burners are required to meet the following conditions:

458.11 Visual emission of air contaminants from all wood waste burners shall meet the applicable provisions of Section 451.

458.12 All persons shall use Best Available Control Technology (BACT) in installing, maintaining, and operating wood waste burners. This requirement shall include a controlled tangential vent over-fire air system, an adequate under-fire air system, and the elimination of all unnecessary openings in the burner.

458.2 It shall be unlawful to cause or permit the emission of particulate matter (including smoke) from any wood waste burner, which moves beyond the property owned or controlled by the owner or operator of said burner, in sufficient quantity and of such characteristics and duration as is or is likely to be injurious or cause damage to human health, plant or animal life or property, or which unreasonably interferes with the enjoyment of property.

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 460 - WEIGHT/HEAT RATE STANDARD - EMISSION OF SULFUR COMPOUNDS

460.1 It shall be unlawful for any person to cause or allow the emission of sulfur compounds, calculated as sulfur dioxide, from any source to exceed the following:

460.11 All plant sources are limited to an emission not to exceed 1.5 pounds of sulfur dioxide per million BTU of input heat per hour.

460.12 All sources not defined as plant sources may be exempt from subsection 460.11 of this Regulation under the following conditions:

460.121 That such exemption is not in excess of thirty (30) days in the aggregate in any calendar year.

460.122 That the owner or operator notify the Control Officer immediately when such exemption is contemplated, or as soon as possible after an emergency has occurred, indicating the expected length of time of such exemption and when normal operations have been resumed.

460.123 That the Control Officer or Board may require from the owner or operator any additional information deemed necessary to determine conditions of the proposed exemption and any impose additional restrictions or conditions on the exemption if it is determined that Section 410 and/or 462 may be violated and/or other applicable ambient air standards exceeded.

460.2 All plant sources shall submit a proposed schedule of compliance with this Section not less than one hundred and eighty (180) days after the effective date of this Regulation providing the following:

460.21 The heat capacity of the entire plant source, the average heat output and the capacity and normal operating conditions of each individual source which shall be submitted, reviewed and determined annually at a time and using a method determined by the Control Officer.

460.23 Any new plants or alterations to existing plants shall be required to use Best Available Technology which has been adequately demonstrated to achieve compliance with this regulation.

460.3 All plant sources shall submit a monitoring proposal and monitoring schedule within one hundred and twenty (120) days of the effective date of this Regulation. Each proposal shall include.

460.31 At least one recording meteorological station equipped to record wind speed and direction and located and operated as approved by the Control Officer. The data shall be capable of being recorded and interpreted as hourly averages.

460.32 The sulfur content and quantity of all materials, gaseous or liquid, fed to any boilers, furnaces, heaters, flares or any other facility capable of generating heat, resulting in emissions to the atmosphere. The sulfur content shall be expressed in pounds/hour of sulfur dioxide and shall contain an explanation of how this quantity was actually determined. The sulfur content of the fuel shall be averaged over a period of time as determined and specified by the Control Officer.

460.33 The sulfur content and quantity of any other individual source capable of emitting sulfur to the atmosphere in quantities in excess of one hundred (100) pounds/day of sulfur compounds calculated as sulfur dioxide. Provided that all sources emitting less than one hundred (100) pounds/day of sulfur compounds, calculated as sulfur dioxide may be estimated collectively as a single emission.

460.34 The monitoring proposal complies with provisions of Section 365.

460.4 For the purposes of this Regulation, all sources with an input heat capacity greater than five hundred million BTU/hour shall be classified as plant sources.

460.5 The total emissions of all sources located in that portion of Sections 2, 3, 4, 5, 9, Township 34 North and Sections 21, 27, 28, 29, 32, 33, 34, 35, in Township 35 North, Range 2 East, Willamette Meridian, all in Skagit County Washington, and commonly known as March Point heavy industrial area; shall not exceed seven thousand (7,000) pounds/hour of sulfur compounds, calculated as sulfur dioxide.

When the Control Officer reasonably believes that there exists a substantial likelihood that this total is likely to be exceeded, he or she shall establish additional temporary restrictions on any or all sources of sulfur compounds in said area to maintain a total emission of less than seven thousand (7,000) pounds/hour. Said restrictions to remain in force only so long as the total emission will exceed 7,000 pounds/hour.

460.6 Emissions from flares, torches and waste gas burners used by any source subject to this Section shall be governed by the provisions set forth in this Section. Provided that emissions from said sources that exceed the limits established by the Regulation of this Authority, shall also be subject to Section 340 "Report of Breakdown" when conditions set forth therein are applicable.

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 462 - EMISSION OF SULFUR COMPOUNDS

462.1 It shall be unlawful for any person to cause or permit the emission of air contaminants from any equipment if the air contaminants emitted as measured in the stack contain sulfur compounds calculated as sulfur dioxide, of more than one thousand (1,000) parts per million (2.62 mg/m3), except as otherwise provided by a specific emission restriction adopted by this Authority and/or the DOE. For the purpose of this section, all sulfur present in gaseous compounds containing oxygen shall be deemed present as sulfur dioxide.

462.2 Emissions of sulfur compounds calculated to be in excess of 1,000 parts per million (2.62 mg/m3) at any emission point, shall not constitute a violation of Section 462.1 of this Regulation, provided such person responsible for the emission provides reasonable evidence that such emissions will not cause ground level concentrations on adjacent property to exceed the values indicated in Section 410 of this Regulation, and can demonstrate to the Control Officer there is no practical method of reducing the concentration to the above levels or less.

462.3 All concentrations of sulfur dioxide referred to in this Section are on a volumetric dry basis. For combustion emissions, the exhaust gas volume shall be corrected to 7% oxygen.
State effective11/13/94, EPA effective: 12/26/95

SECTION 466 - PORTLAND CEMENT PLANTS

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

466.11 Any sources any emission which:

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

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

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

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

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

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

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

466.221 Report all hourly periods in which there are one or more 3 minute periods during which the opacity of the gas discharge to the atmosphere from any kiln exceeds 20%

466.3 Methods and procedures provided for in Sections 180, 360, 365 and 366, except as provided for in this subsection, or determined equivalent by the Control Officer, shall be used to determine compliance.

466.31 Gas Analysis.

466.331 The minimum sampling time and minimum sampling volume for each sampling run, except when process variables or other facts justify otherwise to the satisfaction of the Control Officer, shall be 60 minutes and 30.0 dscf (0.85 m3) for the kiln.

466.332 Total kiln feed rate (except fuels) expressed in tons per hour on a dry basis, shall be determined during each testing period by suitable approved methods and shall be confirmed by a material balance over the production system.

State effective: 9/8/93, EPA effective: 4/24/95

REGULATED ACTIVITIES AND PROHIBITIONS

SECTION 510 - INCINERATOR BURNING

510.1 It shall be unlawful for any person to burn any refuse in any incinerator within the jurisdiction of the Authority except in an approved multiple chamber incinerator or an equivalent design as defined in Section 200 and provided with an emission control facility or in equipment found by the Control Officer, in advance of such use, to be equally effective for the purpose of air pollution control.

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 520 - SULFUR COMPOUNDS IN FUEL

520.1 It shall be unlawful for any person to burn, sell, or make available for sale for burning in fuel burning equipment, or refuse burning equipment, within the jurisdiction of this Authority, any fuel containing a weight of sulfur in excess of that allowed by Subsection 520.11, 520.12, 520.13, 520.14 and 520.15. hereof; for a time period not to exceed an aggregate of thirty (30) days in any twelve(12) month period.

520.11 Distillate fuel oil classified as Grade No. 1 (ASTM designation: D396-69) shall contain three tenths percent (0.3%) or less sulfur by weight.

520.12 Distillate fuel oil classified as Grade No. 2 (ASTM Designation: D396-69) shall contain five-tenths percent (0.5%) or less sulfur by weight.

520.13 All other grades or kinds of fuel oil intended for use in fuel oil burning equipment including ASTM Designation: D396-69 Grades No. 4, 5, and 6 shall contain two percent (2.0%) or less sulfur by weight.

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

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

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 550 - PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE

550.1 It shall be unlawful for any person to cause or permit material to be handled, transported or stored without using Best Available Control Technology to prevent the release of fugitive particulate matter to the ambient air.

550.2 It shall be unlawful for any person to cause or permit a building or its appurtenances or a road to be constructed, altered, repaired or demolished, or conduct sandblasting, without using Best Available Control Technology to prevent the release of fugitive particulate matter to the ambient air.

550.3 It shall be unlawful for any person to cause or permit untreated open areas located within a private lot or roadway to be maintained without using Best Available Control Technology to prevent the release fugitive of particulate matter to the ambient air.

550.4 It shall be unlawful for any person to cause or permit the emission of particulate matter which becomes deposited upon the property of others in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 560 - STORAGE OF ORGANIC LIQUID

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

560.11 A floating roof, consisting of a pontoon type or double-deck type roof, resting on the surface of the liquid contents and equipped with a closure seal, or seals, to close the space between the roof edge and tank wall. The control equipment provided for in this paragraph shall not be used if the gasoline or petroleum distillate has a True Vapor Pressure of 11.1 pounds per square inch or greater under actual storage conditions. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

560.12 A vapor recovery system, consisting of a vapor gathering system capable of collecting the hydrocarbon vapors and gases discharged and a vapor disposal system

capable of processing such hydrocarbon vapors and gases so as to prevent their emission to the atmosphere and with all tank gauging devices gas-tight except when gauging or sampling is taking place.

560.13 Other equipment of equal efficiency, provided such equipment is submitted to and approved by the Control Officer.

State effective: 9/8/93, EPA effective: 4/24/95

SECTION 580 - VOLATILE ORGANIC COMPOUND CONTROL

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

SECTION 580 - DEFINITIONS

BOTTOM LOADING - means the filling of a tank through a submerged fill line.

BULK GASOLINE PLANT - means a gasoline storage and transfer facility that receives more than ninety percent of its annual gasoline through put by transport tank, and reloads gasoline into transport tanks. See also "gasoline station" and "gasoline loading terminal."

CERTIFIED VAPOR RECOVERY SYSTEM - means a stage II vapor recovery system which has been certified by the California Air Resources Board.

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

CUTBACK ASPHALT - means an asphalt that has been blended with more than seven percent petroleum distillates by weight.

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

GASOLINE - Means a petroleum distillate having a true vapor pressure greater than 28.0 kilopascals (kPa) (4 pounds per square inch absolute -p.s.i.a.) - at 20 degrees Celsius (20 C) temperature, that is a liquid at standard conditions of 102.9 kPa (14.7 psi) and 20 C, and is used as a fuel for internal combustion engines.

GASOLINE STATION - means any facility dispensing gasoline into fuel tanks of motor vehicles, from stationary storage tanks. See also "bulk gasoline plant" and "gasoline loading terminal."

GASOLINE LOADING TERMINAL - means a gasoline transfer facility that receives more than ten percent of its annual gasoline throughput solely or in combination by pipeline, ship or barge, and loads gasoline into transport tanks. See also "bulk gasoline plant" and "gasoline station."

LEAK FREE - means a liquid leak of less than four drops per minute.

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

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

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

REID VAPOR PRESSURE - means the true vapor pressure of volatile organic compounds at 37.8 degrees Celsius (100 degrees Fahrenheit) temperature.

STAGE II - means gasoline vapor recovery during motor vehicle refueling operations from stationary tanks.

SUBMERGED FILL LINE - means a pipe, tube, fitting or other hardware for loading liquid into a tank either a discharge opening flush with the tank bottom; or with a discharge opening entirely below the lowest normal operating drawoff level or that level determined by a liquid depth two and one half times the fill line diameter when measured in the main portion of the tank, but not in sumps or similar protrusions.

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

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

TRANSPORT TANK - means a container with a capacity greater than one thousand liters (260 gallons) used for transporting gasoline, including but not limited to, tank truck, tank trailer, railroad car, and metallic or nonmetallic tank or cell conveyed on a flatbed truck, trailer or railroad car.

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

TRUE VAPOR PRESSURE - means the equilibrium partial pressure of an organic liquid (determined with methods described in American Petroleum Institute Bulletin 2517, "Evaporation Loss from Floating Roof Tanks," 1962).

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

UPGRADED - means the replacement or modification gasoline storage tank(s) and/or piping system(s) that exceeds 50% of the replacement cost.

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

VAPOR BALANCING - means use of a vapor balance system.

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

VOLATILE ORGANIC COMPOUND or VOC - means an hydrocarbon or derivative of hydrocarbon that has a vapor pressure greater than 0.01 Kpa (0.002 psia) at a temperature of 20 C and pressure of 102.9 Kpa (14.7 psi). Excluded compounds are methane, ethane, methylene chloride, 1,1,1-trichloroethane (methyl chloroform), trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (CFC-22), trifluoromethane (FC-23), trichlorotrifluoroethane (CFC-113), dichlorotetrafluoroethane (CFC-114), and chloropentafluoroethane (CFC-115).

WAXY, HEAVY POUR CRUDE OIL - means a crude oil with a pour point of 10 C or higher (determined by the American Society for Testing and Materials Standard D97-66, "Test for Pour Point of Petroleum Oils").

SECTION 580.2 - PETROLEUM REFINERIES

580.21 This section shall apply to all petroleum refineries with a crude oil or feed stock capacity greater than three hundred eighteen thousand liters (2,000 barrels) per day.

580.22 It shall be unlawful for any person to cause or allow the disposal of VOC from the vacuum producing systems covered under this subsection except as follows:

580.221 Noncondensable VOC shall be piped to an appropriate firebox, incinerator or to a closed refinery system.

580.222 Hot wells associated with contact condensers shall be tightly covered and the collected VOC introduced into a closed refinery system.

580.23 It shall be unlawful for any person to cause or allow the operation of a wastewater separator with annual VOC emissions estimated by the Authority to exceed 25 tons, when such operation does not comply as follows:

580.231 Wastewater separator forebays shall incorporate a floating pontoon or fixed solid cover with all openings sealed totally enclosing the compartmented liquid contents, or a floating pontoon or a double deck-type cover equipped with closure seals between the cover edge and compartment wall. Collected vapors shall not be discharged to the atmosphere.

580.232 Accesses for gauging and sampling shall be designed to minimize VOC emissions during actual use. All access points shall be closed with suitable covers when not in use.

580.24 It shall be unlawful for any person to cause or allow a process unit turnaround which does not comply with the following conditions:

580.241 The VOC contained in a process unit to be depressurized for turnaround shall be introduced to a closed refinery system, combusted by a flare, or vented to a disposal system

580.242 The VOC pressure in a process unit following depressurization for turnaround shall be less than five pounds per square inch gauge (psig) before venting to the ambient air.

580.243 The owner or operator shall keep a record of each process unit turnaround not in compliance with 580.242.

580.244 The owner or operator shall keep a record of each process unit turnaround listing the date the unit was shut down, the estimated vessel VOC concentration when the VOC was first emitted, and the estimated total quantity of VOC emitted.

580.25 Equipment for the reduction, collection or disposal of VOC shall be maintained and operated in a manner commensurate with accepted industrial practices.

SECTION 580.3 - HIGH VAPOR PRESSURE VOLATILE ORGANIC COMPOUND STORAGE TANKS

580.31 This section shall apply to all tanks except as noted in Section 580.35 of this section which store volatile organic compounds with a true vapor pressure as stored greater than 10.5 kilopascals (kPa) 1.5 pounds per square inch (psia), but less than 77.7 kPa (11.1 psia) at actual monthly average storage temperatures and have a capacity greater than one hundred fifty

thousand liters (40,000 gallons).

580.32 It shall be unlawful for any person to cause or allow storage of volatile organic compounds as specified in Section 580.31 unless each storage tank or container:

580.321 Meets the equipment specifications and maintenance requirements of the Federal Standards of Performance for New Stationary Sources -Storage Vessels for Petroleum Liquids (40 CFR 60, subpart Kb); or

580.322 Is retrofitted with a floating roof or internal floating cover using a metallic seal or a nonmetallic resilient seal at least meeting the equipment specifications of the Federal standards referred to in 580.321 of this subsection, or its equivalent; or

580.323 Is fitted with a floating roof or internal floating cover meeting the manufacturer's equipment specifications in effect when it was installed.

580.33 All seals used with equipment subject to this section are to be maintained in good operating condition and the seal fabric shall contain no visible holes, tears or other openings.

580.34 All openings not related to safety are to be sealed with suitable closures.

580.35 Tanks used for the storage of gasoline in bulk gasoline plants and equipped with vapor balance systems as required in 580.52 shall be exempt from the requirements of this section.

580.36 All tanks storing volatile organic compounds with a true vapor pressure greater than 77.7 Kpa (11.1 psia) shall be equipped with a vapor recovery system

SECTION 580.4 - GASOLINE LOADING TERMINALS

580.41 Section 580.42 shall apply to all gasoline loading terminals with an annual gasoline throughput greater than twenty-seven million three hundred thousand liters (7,200,000 gallons).

580.42 It shall be unlawful for any person to cause or allow the loading of gasoline into any transport tank unless all the following conditions are met:

580.421 The loading terminal shall employ submerged loading or bottom loading and be equipped with a vapor control system.

580.422 All loading lines and vapor lines shall be equipped with vapor-tight fittings which close automatically upon disconnect. The point of closure shall be on the tank side of any hose or immediate connecting line.

580.423 All vapor return lines shall be connected between the transport tank and the vapor control system such that all displaced volatile organic compounds are vented to the vapor recovery system.

580.424 The vapor control system shall prevent the emission of at least 90 percent by weight of the volatile organic compounds and shall limit the emission of volatile organic compounds to no more than 35 milligrams per liter of gasoline transferred. Compliance shall be demonstrated biannially by conducting emission testing according to EPA Method 25 or another method approved by the Control Officer. Thirty days advance notification is required.

580.425 The vapor control system shall be equipped with an appropriate alarm system to alert personnel when the system is not in compliance with 580.424. Prior approval by the Control Officer is required.

580.426 All loading arms shall be designed, maintained and operated to prevent overfill, prevent fugitive liquid or vapor leaks, and prevent excess gasoline drainage during disconnect in accordance with the requirements of 580.10.

SECTION 580.5 - BULK GASOLINE PLANTS

580.51 Section 580.5 shall apply to all gasoline bulk plants.

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

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

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

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

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

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

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

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

580.5213 The pressure relief valves on storage tanks shall be set at the highest

possible pressure consistent with local and state codes for fire and safety.

580.522 Except as provided in 580.523 of this section, it shall be unlawful for any person to cause or allow the transfer of gasoline into or out of any transport tank at a bulk gasoline plant unless said transfer is in compliance with the following conditions:

580.5221 The transport tank shall be equipped with the proper attachment fittings to make vapor-tight connections for vapor balancing with storage tanks; and

580.5222 The vapor line fittings on the transport tank side of break points with the storage tank connection pipe or hose shall be equipped to close automatically upon planned or unintentional disconnect; and

580.5223 The pressure relief valves on transport tanks shall be set at the highest possible pressure consistent with local and state codes for fire and safety.

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

580.5231 The transport tank is used exclusively for the delivery of gasoline into storage tanks of a facility exempt from the vapor balance requirements of 580.6; and

580.5232 The transport tank has a total capacity less than fifteen thousand liters (4,000 gallons) and is of a compartmented design and construction requiring the installation of four or more separate vapor balance fittings.

580.524 The pressure relief valves on storage tanks shall be set at the highest possible pressure consistent with local and state codes for fire and safety.

580.5241 The loading of all transport tanks, exempted under 580.523 of this section, shall be performed such that at least ninety percent by weight of the gasoline vapors displaced during filling are prevented from being released into the ambient air; providing that emissions from pressure relief valves shall not be included in the controlled emissions. This emission limitation will be met by vapor balancing in compliance with all provisions of this section.

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

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

580.53 Except as provided in 580.54 of this section, it shall be unlawful for any person to cause or allow the transfer of gasoline into or out of any transport tank at a bulk gasoline plant unless said transfer is in compliance with the following conditions:

580.531 The transport tank shall be equipped with the proper attachment fittings to make vapor-tight connections for vapor balancing with storage tanks; and

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

580.533 The pressure relief valves on transport tanks shall be set at the highest possible pressure consistent with local and state codes for fire and safety.

580.54 Transport tanks used for gasoline shall be exempt from the requirement to be equipped with any attachment fitting for vapor balance lines, provided the following conditions are met:

580.541 The transport tank is used exclusively for the delivery of gasoline into storage tanks of a facility exempt from the vapor balance requirements of 580.6; and

580.542 The transport tank has a total capacity less than fifteen thousand liters (4,000 gallons) and is of a compartmented design and construction requiring the installation of four or more separate vapor balance fittings.

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

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

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

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

site that will result in evaporation to the ambient air.

SECTION 580.6 - GASOLINE STATIONS

580.61 Section 580.62 shall apply to:

580.611 All gasoline stations in existence on January 1, 1990 with a total annual gasoline output greater than one million three hundred sixty-four thousand liters (360,000 gallons) and total gasoline storage capacity greater than thirty-eight thousand liters (10,000 gallons) and

580.612 All gasoline stations installed or reconstructed after January 1, 1990.

580.62 It shall be unlawful for any person to cause or allow the transfer of gasoline from any transport tank into any stationary storage tank except as provided in 580.63 of this section unless the following conditions are met:

580.621 Such stationary storage tank is equipped with a permanent submerged fill pipe and approved vapor recovery system, and

580.622 Such transport tank is equipped to balance vapors and is maintained in a vapor-tight condition in accordance with Section 580.10 and

580.623 All vapor return line are connected between the transport tank and the stationary storage tank and the vapor recovery system is operating.

580.63 Notwithstanding the requirements of 580.61 of this regulation, the following stationary gasoline storage tanks are exempt from the requirements of 580.62:

580.631 All tanks with a capacity less than seven thousand five hundred liters (2,000 gallons) installed before January 1, 1990.

580.632 All tanks with offset fill lines installed before January 1, 1990.

580.633 All tanks with a capacity less than one thousand liters (260 gallons).

580.64 It shall be unlawful for any person to cause or allow the transfer of gasoline from a stationary tank into a motor vehicle fuel tank except as provided in 580.65 of this section unless the following conditions are met:

580.641 The gasoline station shall be equipped with a certified Stage II vapor recovery systems.

580.642 The owner or operator of the gasoline station shall not allow the transfer of gasoline from stationary tanks into motor vehicle fuel tanks unless a certified State II vapor recovery system is used.

580.643 All Stage II vapor recovery equipment shall be maintained in accordance with the systems certification requirements and shall be maintained to be leak free, vapor tight, and in good working order.

580.644 Whenever a Stage II vapor recovery system is determined to be defective, the owner or operator shall take the system out of service until it has been repaired, replaced, or adjusted, as necessary.

580.645 The owner or operator of each gasoline station utilizing Stage II vapor controls shall post operating instructions for the system as referenced in WAC 173-491-40 (5),(f).

580.65 The following gasoline stations are exempt from the requirements of 580.64:

580.651 All gasoline stations in existence August 2, 1991 having an annual gasoline throughput less than three million, one hundred and eighty-two thousand liters (840,000 gallons).

580.652 All gasoline stations built after August 2, 1991 with a nominal gasoline storage capacity of thirty-seven thousand nine hundred liters (10,000 gallons) or less.

SECTION 580.7 - CUTBACK ASPHALT PAVING

580.71 After June 1, 1990, it shall be unlawful for any person to cause or allow the use of cutback asphalt in paving during the months of June, July, August and September, except as provided for in 580.72 of this section.

580.72 The following paving uses and applications of cutback asphalts are permitted during all months of the year;

580.721 As a penetrating prime coat on aggregate bases prior to paving.

580.722 The manufacture of patching mixes used exclusively for pavement maintenance and needed to be stockpiled for times longer than one month.

580.723 All paving uses when the temperature during application is below 10 C (50 F).

SECTION 580.8 - PETROLEUM REFINERY EQUIPMENT LEAKS

580.81 This section shall apply to all components handling volatile organic compounds at petroleum refinery process units which utilize butane or lighter hydrocarbons as a primary feedstock. The process units shall include alkylation, polymerization, and light ends units.

580.82 It shall be unlawful for any person to cause or allow the operation of a petroleum refinery unless such person:

580.821 Develops and conducts a monitoring program consistent with the provisions of 580.84 of this Section.

580.822 Records all leaking components which have a VOC concentration greater than 10,000 ppm and places a weatherproof tag bearing an identification number and the date the leak was located on each leaking component;

580.823 Corrects and retests the leaking component, as soon as practicable, but not later than fifteen days after the leak is recorded. If a leak continues after all reasonable corrective actions have been taken, then the component shall be repaired or replaced on the next scheduled turnaround;

580.824 Identified all leaking components that cannot be corrected until the refinery unit is shut down for turnaround.

580.83 It shall be unlawful to install or operate a sample point at the end of a pipe or line containing VOC unless the pipe or line is sealed with a second suitable closure. Exceptions to this requirement are the ends of a pipe or line connected to pressure relief valves, aspirator vents or other devices specifically required to be open for safety protection. The sealing device shall be removed only when a sample is being taken or during maintenance operations.

580.84 The owner or operator of a petroleum refinery shall conduct a monitoring program according to EPA reference method 21 and consistent with the following provisions:

580.841 Monitor all pump seals, pipeline valves in liquid service and process drains yearly;

580.842 Monitor all compressor seals, pipeline valves in gaseous service and pressure relief valves in gaseous service quarterly;

580.843 The source may petition the Control Officer to relax the frequency of monitoring from quarterly to annually. The source must show three consecutive quarterly results showing a leak rate of less than two percent for individual process units. If annual monitoring results indicate a leak rate greater than two percent, the source will be required to comply with 580.842

580.844 Visually monitor all pump seals weekly;

580.845 Monitor any dripping pump seal immediately;

580.846 Visually inspect any relief valve within twenty-four hours after it has vented to

the atmosphere; and

580.847 Monitor immediately after repair any component that was found leaking.
580.85 Pressure relief devices that are connected to an operating flare header, vapor recovery device, inaccessible valves, storage tank valves and valves that are not externally regulated are exempt from the monitoring requirements of this Section.

580.86 The owner or operator of a petroleum refinery shall maintain a leaking component monitoring log that shall contain, a t a minimum, the following:

580.861 The name of the process unit where the component is located;

580.862 The type of component;

580.863 The tag number of the component;

580.864 The date on which a leaking component is discovered;

580.865 The date on which a leaking component is repaired;

580.866 The date and instrument reading of the recheck procedure after a leaking component is repaired

580.867 A record of the calibration of the monitoring instrument;

580.868 A record of those leaks that cannot be repaired until turnaround;

580.869 The total number of components checked and the total number of components found leaking. Copies of the monitoring log shall be retained for a minimum of two years after the date on which the record was made or the report prepared.

SECTION 580.9 - HIGH VAPOR PRESSURE VOLATILE ORGANIC COMPOUND STORAGE IN EXTERNAL FLOATING ROOF TANKS

580.91 This section shall apply to all VOC storage vessels equipped with external floating roofs, having capacities greater than 150,000 liters (40,000 gallons). Compliance with this section shall be achieved by December 31, 1999.

580.92 This section does not apply to storage vessels that:

580.921 Are used to store waxy, heavy pour crude oil;

580.922 Have capacities less than 1,600,000 liters (420,000 gallons) and are used to store produced crude oil and condensate prior to lease custody transfer;

580.923 Contain a volatile organic compound with a true vapor pressure of less than 10.5 kPa (1.5 psia);

580.924 Contain a volatile organic compound with a true vapor pressure less than 27.6 kPa (4.0 psia), are of welded construction, and presently possess a metallic-type shoe seal, a liquid mounted foam seal, a liquid-mounted liquid fill type seal, or other equivalent closure device approved by the Control Officer; or

580.925 Are of welded construction, equipped with a metallic-type shoe primary seal and have a shoe-mounted secondary seal.

580.93 It shall be unlawful for any person to store a volatile organic compound in a vessel subject to this section unless the vessel has been fitted with a rim-mounted secondary seal or an equivalent closure device approved by the Control Officer.

580.94 All seals or closure devices required by 580.93 shall meet the following requirements:

580.941 There must be no visible holes, tears, or other openings in the seal or seal fabric;

580.942 The seal shall be intact and uniformly in place around the circumference of the floating roof between the roof and the tank wall; and

580.943 For vapor mounted primary seals, the accumulated area of gaps exceeding 0.32 cm (1/8 inch) in width between the secondary seal and the tank wall shall not exceed 21.2 cm2 per meter of tank diameter (1.0 in 2 per foot of tank diameter).

580.95 All openings in the external floating roof, except for automatic bleeder vents, rim space vents, and leg sleeves shall be:

580.951 Equipped with covers, seals, or lids in the closed position except when the openings are in actual use; and

580.952 Equipped with projections into the tank which remain below the liquid surface at all times.

580.96 Automatic bleeder vents shall be closed at all times except when the roof is floated off or landed on the roof leg supports;

580.97 Rim vents shall be set to open when the roof is being floated off the leg supports or at the manufacturer's recommended setting;

580.98 Emergency roof drains shall be provided with slotted membrane fabric covers or equivalent which cover at least ninety percent of the area of the opening.

580.99 Routine inspections shall be performed as follows:

580.991 Conduct a semi-annual visual inspection of the secondary seal gap;

580.992 Measure the secondary seal gap annually if the floating roof is equipped with a vapor-mounted primary seal; and

580.993 Maintain records of the types of petroleum liquids stored, the maximum true vapor pressure of the liquid as stored, and the results of any inspections performed for period of two years after the date on which the record was made.

580.994 A person proposing to measure the seal fit of a storage vessel in order to comply with this section shall notify the Control Officer of the intent to measure not less than five working days before the measurement so the Control Officer may at his option observe the measurement.

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

SECTION 580.10 - LEAKS FROM GASOLINE TRANSPORT TANKS AND VAPOR CONTROL SYSTEMS

580.101 This Section shall apply to all gasoline transport tanks and all facilities subject to 580.4, 580.5, and 580.6 of the Northwest Air Pollution Authority Regulation beginning January 1, 1991.

580.102 It shall be unlawful for any person to cause or allow the transfer of gasoline between a facility subject to the requirements of this Section and a gasoline transport tank unless a current leak test certification for the transport tank is on file with the facility or a valid inspection sticker is displayed on the vehicle.

580.103 It shall be unlawful for any person to cause or allow the use of any transport tank for the transfer or gasoline at a facility subject to the requirements of this Section, unless the tank:

580.1031 Is leak tested annually in accordance with 580.105; and 580.1032. Either displays a sticker or carries a certificate which:

- **(a)** shows the date the tank last passed the leak test; and
- **(b**) shows the identification number of the tank; and

580.1032 Either displays a sticker or carries a certificate which:

- **(a)** shows the date the tank last passed the leak test; and
- **(b**) shows the identification number of the tank; and

580.1033 Is loaded and unloaded in such a manner that the concentration of gasoline vapors is below the lower explosive limit (expressed as propane) at all points a distance of 2.5 cm(1 inch) or greater from any potential leak source. Any transport tank which fails to meet the requirements of this subparagraph shall be repaired and retested in accordance with the provisions of 580.105 within 10 working days. The Control Officer shall be notified in writing within 5 days after the completion of the required leak test.

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

580.1041 The concentrations of gasoline vapors is below the lower explosive limit (expressed as propane) at all points a distance of 2.5 cm (1 inch) or greater from any potential leak source; and

580.1042 There are no liquid leaks in excess of three drops per minute and there is no more than 10 ml of liquid drainage per disconnect.

580.105 In accordance with 580.114, the annual leak test required by 580.103 shall be performed according to the procedures specified in EPA Reference Method 27. During the test each transport tank shall sustain a pressure change of no more than 0.75 Kpa (3 inches of water) in five minutes when pressurized to a gauge pressure of 4.5 Kpa (18 inches of water) and evacuated to a gauge pressure of 1.5 Kpa (6 inches of water) during the test.

SECTION 580.11 - SCOPE, REGISTRATION, REPORTING AND NOTICE OF CONSTRUCTION

580.111 The owner or operator of a stationary emission source of VOC shall notify the Authority and register the source in compliance with Sections 300, 320, 321, 322,323,324.

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

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

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

580.1141 Install, operate, and maintain, process and/or control equipment, monitoring instruments or procedures as necessary to comply with paragraph 580.113 of this section;

provided that use of Monitoring instruments or procedures is required only as specified in EPA/DOE Documents cited in subsection 580.113.

580.1142 Maintain, in writing, records and/or reports relating to monitoring instruments or procedures which will, upon review, document the compliance status of the VOC emission source or control equipment to the satisfaction of the Control Officer. Reports shall be forwarded to the Control Officer as required by procedures cited in 580.113. For sources subject to580.6 and 580.7, no records or reports are required.

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

SECTION 580.12 - SCHEDULE OF COMPLIANCE DATES

580.121 Section 580 shall become effective throughout the Authority's jurisdictional area upon adoption of this section. All VOC sources shall be in compliance within a reasonable time but no later that the following schedule unless otherwise stated:

Petroleum Refineries	December 31, 1993
Gasoline Terminals	December 31, 1993
Bulk Gasoline Plants	December 31, 1993
Gasoline Stations - Stage I	December 31, 1993

Gasoline Stations - Stage II

New or upgraded stations constructed after August 2, 1991 shall comply upon completion of construction.

Stations with an annual gasoline throughput greater than 1.2 million gallons shall comply by no later than May 1, 1994.

Stations with an annual gasoline throughput greater than 840,000 gallons, not previously required to comply shall comply by no later than December 31, 1998.

State effective: 11/13/94; EPA effective: 12/26/95

Washington Department of Ecology Regulations

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

173-400-010 Policy and Purpose.

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

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

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

173-400-020 Applicability.

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

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

(a) Specific source categories over which the state, by separate regulation, has assumed or hereafter does assume jurisdiction.

(b) Automobiles, trucks, aircraft.

(c) Those sources under the jurisdiction of the energy facility site evaluation council.

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

173-400-030 Definitions.

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

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

(a) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. Ecology or an authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(b) Ecology or an authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the emissions unit.

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

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

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

(4) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities, and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property. For the purposes of this chapter, air pollution shall not include air contaminants emitted in compliance with chapter 17.21 RCW, the Washington Pesticide Application Act, which regulates the application and control of the use of various pesticides.

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

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

(b) Any applicable state implementation plan emissions limitation including those with a future compliance date; or

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

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

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

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

(9) "Best available control technology (BACT)" means an emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation under chapter 70.94 RCW emitted from or which results from any new or modified stationary source, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall application of the "best available control technology" result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61, as they exist on May 7, 1993, or their later enactments as adopted by reference by the director by rule. Emissions from any source utilizing clean fuels, or any other means, to comply with this paragraph shall not be allowed to increase above levels that would have been required under the definition of BACT in the Federal Clean Air Act as it existed prior to enactment of the Clean Air Act Amendments of 1990.

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

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

(12) "Capacity factor" means the ratio of the average load on equipment or a machine for the period of time considered, to the manufacturer's capacity rating of the machine or equipment.

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

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

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

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

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

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

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

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

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

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

(20) "Emission" means a release of air contaminants into the ambient air.

(21) "Emission reduction credit (ERC)" means a credit granted pursuant to WAC 173-400-131. This is a voluntary reduction in emissions.

(22) "Emission standard" and "emission limitation" means a requirement established under the

FCAA or chapter 70.94 RCW which limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction and any design, equipment work practice, or operational standard promulgated under the FCAA or chapter 70.94 RCW.

(23) "Emissions unit" means any part of a stationary source or source which emits or would have the potential to emit any pollutant subject to regulation under the FCAA, chapter 70.94 or 70.98 RCW.

(24) "Excess emissions" means emissions of an air pollutant in excess of any applicable emission standard.

(25) "Excess stack height" means that portion of a stack which exceeds the greater of sixty-five meters or the calculated stack height described in WAC 173-400-200(2).

(26) "Existing stationary facility" means a stationary source of air pollutants which has the potential to emit two hundred fifty tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted. For purposes of determining whether a stationary source is an existing stationary facility the term "building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual, 1972,* as amended by the 1977 Supplement.

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

(28) "Federal land manager" means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

(29) "Fossil fuel-fired steam generator" means a device, furnace, or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

(30) "Fugitive dust" means a particulate emission made airborne by forces of wind, man's activity, or both. Unpaved roads, construction sites, and tilled land are examples of areas that originate fugitive dust. Fugitive dust is a type of fugitive emission.

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

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

excluding combustion.

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

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

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

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

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

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

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

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

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

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

(39) "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any

pollutant subject to regulation under the FCAA. Any net emissions increase that is considered significant for volatile organic compounds or nitrogen oxides shall be considered significant for ozone. A physical change or change in the method of operation shall not include:

(a) Routine maintenance, repair, and replacement;

(b) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Supply Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(c) Use of an alternative fuel by reason of an order or rule under section 125 of the FCAA, 42 U.S.C. 7425;

(d) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(e) Use of an alternative fuel or raw material by a stationary source which:

(i) The stationary source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 12, 1976, in a prevention of significant deterioration permit or notice of construction approval; or

(ii) The stationary source is approved to use under any federally-enforceable notice of construction approval or a PSD permit issued by the environmental protection agency;

(f) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976, in a prevention of significant deterioration permit or a notice of construction approval;

(g) Any change in ownership at a stationary source.

(40) "Major stationary source" means:

(a) Any stationary source which:

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

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

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

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

(ii) Is located in a "serious" particulate matter (PM_{10}) nonattainment area and which emits or has the potential to emit seventy tons per year or more of PM_{10} emissions.

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

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

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

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

(ii) Kraft pulp mills;

(iii) Portland cements plants;

(iv) Primary zinc smelters;

(v) Iron and steel mills;

(vi) Primary aluminum ore reduction plants;

(vii) Primary copper smelters;

(viii) Municipal incinerators capable of charging more than two hundred fifty tons of refuse per day;

(ix) Hydrofluoric, sulfuric, or nitric acid plants;

(x) Petroleum refineries;

(xi) Lime plants;

(xii) Phosphate rock processing plants;

(xiii) Coke oven batteries;

(xiv) Sulfur recovery plants;

(xv) Carbon black plants (furnace process);

(xvi) Primary lead smelters;

(xvii) Fuel conversion plants;

(xviii) Sintering plants;

(xix) Secondary metal production plants;

(xx) Chemical process plants;

(xxi) Fossil-fuel boilers (or combination thereof) totaling more than two hundred fifty million British thermal units per hour heat input;

(xxii) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand barrels;

(xxiii) Taconite ore processing plants;

(xxiv) Glass fiber processing plants;

(xxv) Charcoal production plants;

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

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

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

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

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

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

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

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

(46) "Net emissions increase" means:

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

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

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

(b) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date ten years before construction on the particular change commences and the date that the increase from the particular change occurs.

(c) An increase or decrease in actual emissions is creditable only if:

(i) It occurred no more than one year prior to the date of submittal of a complete notice of construction application for the particular change, or it has been documented by an emission reduction credit, in which case the credit shall expire ten years after the date of original issue of the ERC. Any emissions increases occurring between the date of issuance of the ERC and the date when a particular change becomes operational shall be counted against the ERC.

(ii) Ecology or the authority has not relied on it in issuing any permit or order of approval for the source under regulations approved pursuant to 40 CFR 51

Subpart I or the EPA has not relied on it in issuing a PSD permit pursuant to 40 CFR 52.21, which order or permit is in effect when the increase in actual emissions from the particular change occurs.

(d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(e) A decrease in actual emissions is creditable only to the extent that:

(i) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) It is federally enforceable at and after the time that actual construction on the particular change begins;

(iii) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

(iv) Ecology or the authority has not relied on it in issuing any permit or order of approval under regulations approved pursuant to 40 CFR 51 Subpart I, the EPA has not relied on it in issuing a PSD permit pursuant to 40 CFR 52.21, or ecology or the authority has not relied on it in demonstrating attainment or reasonable further progress.

(f) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty days.

(47) "New source" means:

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

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

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

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

(50) "Notice of construction application" means a written application to permit construction of

a new source, modification of an existing stationary source or replacement or substantial alteration of control technology at an existing stationary source.

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

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

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

(54) "Order of approval" or "approval order" means a regulatory order issued by ecology or the authority to approve the notice of construction application for a proposed new source or modification, or the replacement or substantial alteration of control technology at an existing stationary source.

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

(56) "Particulate matter emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method specified in 40 CFR Part 60 or by a test method specified in the Washington state implementation plan.

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

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

(59) "PM-10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

(60) "PM-10 emissions" means finely divided solid or liquid material, including condensible particulate matter, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in Appendix M of 40 CFR Part 51 or by a test method specified in the Washington state implementation plan.

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

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

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

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

(65) "Reasonably available control technology (RACT)" means the lowest emission limit that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for any source or source category shall be adopted only after notice and opportunity for comment are afforded.

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

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

Pollutant	Tons/Year
Carbon monoxide	100
Nitrogen oxides	40
Sulfur dioxide	40
Particulate matter (PM)	25
Fine particulate matter (PM_{10})	15
Volatile organic compounds (VOC)	40
Lead	0.6

Fluorides	3
Sulfuric acid mist	7
Hydrogen sulfide (H_2S)	10
Total reduced sulfur (including H_2S)	10
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	0.0000035
Municipal waste combustor metals (measured as PM)	15
Municipal waste combustor acid gases (measured as SO_2 and hydrogen chloride)	40

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

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

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

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

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

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

(74) "Stationary source" means any building, structure, facility, or installation which emits or may emit any contaminant. This term does not include emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in Section 216 of the FCAA.

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

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

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

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

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

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

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

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

(i) Cyclic, branched, or linear completely fluorinated alkanes;

(ii) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations; and

(iii) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(b) For the purpose of determining compliance with emission limits, VOC will be measured by the appropriate methods in 40 CFR Part 60 Appendix A. Where such a

method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by ecology or the authority.

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

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

173-400-040 General Standards for Maximum Emissions.

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

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

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

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

~~(c) When two or more sources are connected to a common stack, ecology or the~~

~~authority may allow or require the use of an alternate time period if it is more representative of normal operations.~~

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

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

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

(a) If located in an attainment area and not impacting any nonattainment area, shall take reasonable precautions to prevent the release of air contaminants from the operation.

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

~~(4) Odors. Any person who shall cause or allow the generation of any odor from any source which may unreasonably interfere with any other property owner's use and enjoyment of his property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.~~

(5) Emissions detrimental to persons or property. No person shall cause or permit the emission of any air contaminant from any source if it is detrimental to the health, safety, or welfare of any person, or causes damage to property or business.

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

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

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

(8) Fugitive dust sources.

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

(b) The owner(s) or operator(s) of any existing source(s) of fugitive dust that has been identified as a significant contributor to a PM-10 nonattainment area shall be required to use reasonably available control technology to control emissions. Significance will be determined by the criteria found in WAC 173-400-113(3).

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

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

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

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

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

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

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

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

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

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

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

(1) Wigwam burners.

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

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

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

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

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

(ii) A requirement to apply BACT.

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

(2) Hog fuel boilers.

(a) Hog fuel boilers shall meet all provisions of WAC 173-400-040 and 173-400-050(1), except that emissions may exceed twenty percent opacity for up to fifteen consecutive minutes once in any eight hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary to the operation of these units. This practice is to be scheduled for the same specific times each day and ecology or the authority shall be notified of the schedule or any changes.

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

(3) Orchard heating.

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

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

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

(5) Catalytic cracking units.

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

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

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

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

(6) Other wood waste burners.

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

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

~~(7) Sulfuric acid plants.~~
~~No person shall cause to be discharged into the atmosphere from a sulfuric acid plant, any gases which contain acid mist, expressed as H_2SO_4, in excess of 0.15 pounds per ton of acid produced. Sulfuric acid production shall be expressed as one hundred percent H_2SO_4.~~

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

173-400-081 Startup and Shutdown.

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

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

173-400-091 Voluntary Limits on Emissions.

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

(2) A condition contained in an order issued under this section shall be less than the source's otherwise allowable annual emissions of a particular contaminant under all applicable requirements of the chapter 70.94 RCW and the FCAA, including any standard or other requirement provided for in the Washington state implementation plan. The term "condition" refers to limits on production or other limitations, in addition to emission limitations.

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

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

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

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

173-400-100 Registration.

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

(a) Agricultural drying and dehydrating operations;

(b) Asphalt plants;

(c) Beverage can surface coating operations;

(d) Bulk gasoline terminals;

(e) Cattle feedlots with facilities for one thousand or more cattle;

(f) Chemical plants;

(g) Ferrous foundries;

(h) Fertilizer plants

(i) Flexible vinyl and urethane coating and printing operations;

(j) Grain handling, seed processing, pea and lentil processing facilities;

(k) Metallic mineral processing plants;

(l) Mineralogical processing plants

(m) Nonferrous foundries;

(n) Other metallurgical processing plants;

(o) Petroleum refineries;

(p) Power boilers using coal, hog fuel, oil, or other solid or liquid fuel;

(q) Pressure sensitive tape and label surface coating operations;

(r) Rendering plants;

(s) Scrap metal operations;

(t) Synthetic organic chemical manufacturing industries;

(u) Sulfuric acid plants;

(v) Synthetic fiber production facilities;

(w) Veneer dryers;

(x) Wood waste incinerators including wigwam burners;

(y) Other incinerators designed for a capacity of one hundred pounds per hour or more;

(z) Stationary internal combustion engines rated at five hundred horse power or more;

(aa) Sawmills, including processing for lumber, plywood, shake, shingle, pulpwood insulating board, or any combination thereof;

(bb) Any category of stationary sources subject to a federal standard of performance (NSPS) under 40 CFR Part 60, other than Subpart AAA (Standards of Performance for New Residential Wood Heaters);

(cc) Any source which emits a contaminant subject to a National Emission Standard for Hazardous Air Pollutants (NESHAPS);

(dd) Any major stationary source.

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

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

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

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

173-400-105 Records, Monitoring and Reporting.

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

(1) Emission inventory. The owner(s) or operator(s) of any air contaminant source shall submit an inventory of emissions from the source each year. The inventory may include stack and fugitive emissions of particulate matter, PM_{10}, sulfur dioxide, carbon monoxide, total reduced sulfur compounds (TRS), fluorides, lead, VOCs, and other contaminants, and shall be submitted (when required) no later than one hundred five days after the end of the calendar year. The owner(s) or operator(s) shall maintain records of information necessary to substantiate any reported emissions, consistent with the averaging times for the applicable standards.

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

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

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

(4) Source testing. To demonstrate compliance, ecology or the authority may conduct or require that a test be conducted of the source using approved EPA methods from 40 CFR 60

Appendix A which are adopted by reference, or approved procedures contained in *"Source Test Manual - Procedures for Compliance Testing,"* state of Washington, department of ecology, as of July 12, 1990, on file at ecology. The operator of a source may be required to provide the necessary platform and sampling ports for ecology personnel or others to perform a test of an emissions unit. Ecology shall be allowed to obtain a sample from any emissions unit. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

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

(a) Fossil fuel-fired steam generators.

(i) Opacity, except where:

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

(B) Only gaseous fuel is burned.

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

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

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

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

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

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

(d) Wood residue fuel-fired steam generators.

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

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

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

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

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

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

(ii) Not subject to an applicable emission standard.

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

(6) Change in raw materials or fuels for sources not subject to requirements of the operating permit program. Any change or series of changes in raw material or fuel which will result in a cumulative increase in emissions of sulfur dioxide of forty tons per year or more over that stated in the initial inventory required by subsection (1) of this section shall require the submittal of sufficient information to ecology or the authority to determine the effect of the increase upon ambient concentrations of sulfur dioxide. Ecology or the authority may issue regulatory orders requiring controls to reduce the effect of such increases. Cumulative changes in raw material or fuel of less than 0.5 percent increase in average annual sulfur content over the initial inventory shall not require such notice.

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

173-400-107 Excess Emissions.

(1) The owner or operator of a source shall have the burden of proving to ecology or the authority or the decision-making authority in an enforcement action that excess emissions were unavoidable. This demonstration shall be a condition to obtaining relief under subsections (4), (5) and (6) of this section.

(2) Excess emissions determined to be unavoidable under the procedures and criteria in this section shall be excused and not subject to penalty.

(3) Excess emissions which represent a potential threat to human health or safety or which the owner or operator of the source believes to be unavoidable shall be reported to ecology or the authority as soon as possible. Other excess emissions shall be reported within thirty days after the end of the month during which the event occurred or as part of the routine emission monitoring reports. Upon request by ecology or the authority, the owner(s) or operator(s) of the source(s) shall submit a full written report including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence.

(4) Excess emissions due to startup or shutdown conditions shall be considered unavoidable provided the source reports as required under subsection (3) of this section and adequately demonstrates that the excess emissions could not have been prevented through careful planning and design and if a bypass of control equipment occurs, that such bypass is necessary to prevent loss of life, personal injury, or severe property damage.

(5) Maintenance. Excess emissions due to scheduled maintenance shall be considered unavoidable if the source reports as required under subsection (3) of this section and adequately demonstrates that the excess emissions could not have been avoided through reasonable design, better scheduling for maintenance or through better operation and maintenance practices.

(6) Excess emissions due to upsets shall be considered unavoidable provided the source reports as required under subsection (3) of this section and adequately demonstrates that:

> (a) The event was not caused by poor or inadequate design, operation, maintenance, or any other reasonably preventable condition;
>
> (b) The event was not of a recurring pattern indicative of inadequate design, operation, or maintenance; and
>
> (c) The operator took immediate and appropriate corrective action in a manner consistent with good air pollution control practice for minimizing emissions during the event, taking into account the total emissions impact of the corrective action, including slowing or shutting down the emission unit as necessary to minimize emissions, when the

operator knew or should have known that an emission standard or permit condition was being exceeded.

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

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

(1) Applicability:

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

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

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

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

(3) Final Determination:

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

(b) Every final determination on a notice of construction application shall be reviewed

and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of ecology or the authority.

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

(4) Appeals: An order of approval, any conditions contained in an order of approval, or the denial of a notice of construction application may be appealed to the pollution control hearings board as provided in chapter 43.21B RCW. Ecology or the authority shall promptly mail copies of each order approving or denying a notice of construction application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising parties of their rights of appeal to the Pollution Control Hearings Board and, where applicable, to the EPA Environmental Appeals Board.

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

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

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

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

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

(1) The proposed new source or modification will comply with all applicable new source performance standards, national emission standards for hazardous air pollutants, emission standards adopted under chapter 70.94 RCW and, for sources regulated by an authority, the applicable emission standards of that authority.

(2) The proposed new source will employ BACT for all air contaminants, except that if the new source is a major stationary source or the proposed modification is a major modification it will achieve LAER for the contaminants for which the area has been designated nonattainment and for which the proposed new source or modification is major.

(3) The proposed new source will not cause any ambient air quality standard to be exceeded, will not violate the requirements for reasonable further progress established by the state implementation plan and will comply with WAC 173-400-113(3) for all contaminants for which the area has not been designated nonattainment.

(4) If the proposed new source is a major stationary source or the proposed modification is a major modification, ecology or the authority has determined, based on review of an analysis performed by the source of alternative sites, sizes, production processes, and environmental control techniques, that the benefits of the project significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

(5) If the proposed new source or the proposed modification is major for the contaminant for which the area is designated nonattainment, allowable emissions from the proposed new source or modification of that contaminant are offset by reductions in actual emissions from existing sources in the nonattainment area. Emission offsets must be sufficient to ensure that total allowable emissions from existing major stationary sources in the nonattainment area, new or modified sources which are not major stationary sources, and the proposed new or modified source will be less than total actual emissions from existing sources (prior to submittal of the application) so as to represent (when considered together with the nonattainment provisions of section 172 of the FCAA) reasonable further progress. All offsetting emission reductions must satisfy the following requirements:

> (a) The proposed new level of allowable emissions of the source or emission unit(s) providing the reduction must be less than the current level of actual emissions of that source or emissions unit(s). No emission reduction can be credited for actual emissions which exceed the current allowable emissions of the source or emissions unit(s) providing the reduction. Emission reductions imposed by local, state, or federal regulations, regulatory orders, or permits cannot be credited.
>
> (b) The emission reductions must provide for a net air quality benefit. For marginal ozone nonattainment areas, the total emissions of volatile organic compounds or total emissions of nitrogen oxides are reduced by a ratio of 1.1 to 1 for the area in which the new source is located. For any other nonattainment area, the emissions offsets must provide a positive net air quality benefit in the nonattainment area. Determinations on

whether emissions offsets provide a positive net air quality benefit will be made in accordance with the guidelines contained in 40 CFR 51 Appendix S.

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

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

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

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

(9) If the proposed new source is a major stationary source or the proposed modification is a major modification, ecology or the authority has complied with the visibility protection review requirements of 40 CFR 52.28(c) through (e) except for (c)(4)(i), (g), and (h), as in effect on March 3, 1993, and determined that the project meets the criteria set forth in 40 CFR 52.28(g). For purposes of this subsection, definitions referenced in 40 CFR 52.28(b) are incorporated by reference, except that the term "visibility protection area" means any Class I area, and terms defined in WAC 173-400-030 shall have the meanings defined in that section. References in 40 CFR 52.28 to "the Administrator" shall mean the agency (either ecology or the authority) processing the notice of construction application.

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

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

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

determine that the proposed project satisfies all of the following requirements:

(1) The proposed new source or modification will comply with all applicable new source performance standards, national emission standards for hazardous air pollutants, emission standards adopted under chapter 70.94 RCW and, for sources regulated by an authority, the applicable emission standards of that authority.

(2) The proposed new source or modification will employ BACT for all pollutants not previously emitted or whose emissions would increase as a result of the new source or modification.

(3) Allowable emissions from the proposed new source or modification will not delay the attainment date for an area not in attainment nor cause or contribute to a violation of any ambient air quality standard. This requirement will be considered to be met if the projected impact of the allowable emissions from the proposed new source or the projected impact of the increase in allowable emissions from the proposed modification at any location within a nonattainment area does not exceed the following levels for the pollutant(s) for which the area has been designated nonattainment:

Pollutant	Annual Average	24-Hour Average	8-Hour Average	3-Hour Average	1-Hour Average
CO-	-	0.5 mg/m^3		2 mg/m^3	
SO_2	1.0 ug/m^3	5 ug/m^3	-	25 ug/m^3	30 ug/m^3
PM_{10}	1.0 ug/m^3	5 ug/m^3	-	-	-
NO_2	1.0 ug/m^3	-	-	-	-

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

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

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

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

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

173-400-151 Retrofit Requirements for Visibility Protection.

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

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

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

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

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

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

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

173-400-161 Compliance Schedules.

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

(2) Federal action. A source shall be considered to be in compliance with this chapter if all the provisions of its individual compliance schedule included with a regulatory order are being met.

Such compliance does not preclude federal enforcement action by the EPA until and unless the schedule is submitted and adopted as an amendment to the state implementation plan.

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

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

173-400-171 Public Involvement.

(1) Applicability.

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

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

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

(c) Any order to determine RACT; or

(d) An order to establish a compliance schedule or a variance; or

(e) The establishment or disestablishment of a nonattainment area, or the changing of the boundaries thereof; or

(f) An order to demonstrate the creditable height of a stack which exceeds the GEP formula height and sixty-five meters, by means of a fluid model or a field study, for the purposes of establishing an emission limitation; or

(g) An order to authorize a bubble; or

(h) Notice of construction application or regulatory order used to establish a creditable emission reduction;

(i) An order issued under WAC 173-400-090 which establishes limitations on a source's potential to emit; or

(j) Any application or other proposed action made pursuant to this chapter in which there is a substantial public interest according to the discretion of ecology or the authority.

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

(a) Availability for public inspection in at least one location near the proposed project, of the nonproprietary information submitted by the applicant and of any applicable preliminary determinations, including analyses of the effect(s) on air quality.

(b) Publication in a newspaper of general circulation in the area of the proposed project of notice:

(i) Giving a brief description of the proposal;

(ii) Advising of the location of the documents made available for public inspection;

(iii) Advising of a thirty-day period for submitting written comment to ecology or the authority;

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

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

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

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

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

(5) Other requirements of law. Whenever procedures permitted or mandated by law will

accomplish the objectives of public notice and opportunity for comment, such procedures may be used in lieu of the provisions of this section.

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

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

173-400-190 Requirements for Nonattainment Areas.

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

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

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

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

(a) Stacks for which construction had commenced on or before December 31, 1970, except where pollutants are being emitted from such stacks used by sources which were constructed, or reconstructed, or for which major modifications were carried out after December 31, 1970;

(b) Coal-fired steam electric generating units subject to the provisions of Section 118 of the Federal Clean Air Act, which commenced operation before July 1, 1957, and for whose stacks construction commenced before February 8, 1974;

(c) Flares;

(d) Open burning for agricultural or silvicultural purposes as covered under the smoke management plan;

(e) Residential wood combustion and open burning for which episodic restrictions apply.

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

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

(a) Excess stack height. Excess stack height is that portion of a stack which exceeds

the greater of:

(i) Sixty-five meters, measured from the ground level elevation at the base of the stack; or

(ii) H_g.= H.+ 1.5L

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

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

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

"Nearby," as used in this subsection for purposes of applying the GEP formula means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 kilometer (1/2 mile).

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

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

(ii) The merging of gas streams where:

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

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

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

dispersion.

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

(a) "Nearby," as used in this subsection for conducting a field study or fluid model, means not greater than 0.8 km, except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten times the maximum height of the feature, not to exceed two miles if such feature achieves a height 0.8 km from the stack that is at least forty percent of the GEP stack height or twenty-six meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

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

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

173-400-205 Adjustment for Atmospheric Conditions.

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

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

173-400-210 Emission Requirements of Prior Jurisdictions.

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

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