

**REGULATIONS**  
of the  
**OLYMPIC REGION CLEAN AIR AGENCY**  
Clallam, Grays Harbor, Jefferson, Mason, Pacific  
and Thurston Counties  
**ADOPTED BY THE BOARD OF DIRECTORS**  
**ON DECEMBER 3, 1969**

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**NOTICE**

The regulations, rules, and emission standards of the ORCAA, and as described on the following pages are the basic law for the geographical area covered, and are the priority regulations for the same subject matter covered by other laws concerning air pollution control.

Other Reference in Law Concerning

**AIR POLLUTION IN THE STATE OF WASHINGTON**

- (1) Chapter 70.94 Revised Code of Washington, the State Clean Air Act: and related administrative codes of the State of Washington Department of Ecology, Chapter 18 and 173.
- (2) United States Public Law 95-95, Clean Air amendments of 1977: and related regulations and standards of the U.S. Environmental Protection Agency as found in the Federal Register.



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# REGULATION 1 – GENERAL PROVISION

## RULE 1.1 POLICY

The Olympic Region Clean Air Agency (Agency), consisting of the counties of Clallam, Grays Harbor, Jefferson, Mason, Pacific and Thurston, having formed pursuant to chapter 70.94 RCW, as amended, adopts the following Regulations to control the emission of air contaminants from sources within the jurisdiction of the Agency: to provide for the uniform administration and enforcement of these Regulations: and to administer the requirements and purposes of chapter 70.94 RCW, as amended, and the Federal Clean Air Act.

It is hereby declared to be the public policy of the Olympic Region Clean Air Agency to secure and maintain such levels of air quality as will protect human health and safety; and, to the greatest degree practicable, prevent injury to plant and animal life and to property; and be consistent with the social, economic and industrial well-being of the territory of the Agency.

## RULE 1.2 NAME OF AGENCY

The name of the multi county air pollution control authority comprised of the activated or inactivated air pollution control authorities of Clallam County, Grays Harbor County, Jefferson County, Mason County, Pacific County, and Thurston County shall be known and cited as the “Olympic Region Clean Air Agency.”

## RULE 1.3 SHORT TITLE

These Regulations may be known and cited as “Regulations of the Olympic Region Clean Air Agency.”

## RULE 1.4 DEFINITIONS

When used in regulations of the Olympic Region Clean Air Agency, the following definitions shall apply, unless defined otherwise in individual Regulations:

**“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 rule.

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

**“Agency”** shall mean the same as “Authority.”

**“Agricultural Operation”** means the growing of crops, the raising of fowl or animals as gainful occupation.

**“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.”

**“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, property, or which unreasonably interferes with enjoyment of life and property. For the purpose of these Regulations, air pollution shall not include air contaminants emitted in compliance with chapter 17.21 RCW, the Washington Pesticide Application Act, which regulates the application and control of the use of various pesticides.

**“Air Pollution Episode”** means a period when a forecast, alert, warning, or emergency air pollution state is declared, as stated in chapter 173-435 WAC.

**“Allowable Emissions”** means the emission rate of a source calculated using the maximum rated capacity of the source (unless the 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, 61, or 63;
- (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 future compliance date.

**“Alteration”** means the act of altering, which means to change or make different and includes any addition to or enlargement or replacement; or change of the design, capacity, process or arrangement; or any increase in the connected loading of equipment or control facility; or any change in fuels, method of operation or hours of operation not previously approved by the Agency through a Notice of Construction Approval, which would increase or adversely affect the kind or amount of air contaminant emitted by a stationary source.

**“Ambient Air”** means the surrounding outside air.

**“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.

**“Ancillary”** for the purpose of defining “stationary source” or “source,” means “related.”

**“Approval Order”** is defined in “order of approval.”

**“Attainment Area”** means a geographic area designated by EPA at 40 CFR Part 81 as having attained the National Ambient Air Quality Standard for a given criteria pollutant.



**“Authority”** means the Olympic Region Clean Air Agency. “Agency” shall mean the same as “Authority.”

**“Authorized Permitting Agent”** means either the county, county fire marshal, fire districts, or county conservation district, provided an agreement has been signed with the local air pollution control agency or Department of Ecology.

**“Begin Actual Construction”** means, in general, initiation of physical on-site construction activities on an emission unit, which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipe work and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

**“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 agency, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such stationary source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control of such air pollutant. In no event shall application of the best available control technology result in emissions of any pollutants which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60, Part 61, and Part 62. Emissions from any stationary source utilizing clean fuels, or any other means, to comply with this paragraph shall not be allowed to increase above levels that would have been required under definition of BACT in the Federal Clean Air Act as it existed prior to enactment of the Clean Air Act Amendments of 1990.

**“Board”** means the Board of Directors of the Olympic Region Clean Air Agency.

**“Bubble”** means a set of emission limits which allows an increase in emissions from a given emissions unit in exchange for a decrease in emissions from another emissions unit, pursuant to RCW 70.94.155 and Rule 6.1.12 of Regulation 6.

**“Commenced”** as applied to “Construction” means that the owner or operator has all the necessary pre-construction 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 canceled 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.

For the purpose of this definition, “necessary pre-construction approvals” means those permits or orders of approval required under federal air quality control laws and regulations, including state, local and federal regulations and orders contained in the SIP.

**“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.

**“Control Apparatus”** means any device that prevents or controls the emission of any air contaminant.

**“Control Officer”** means the Air Pollution Control Officer of the Olympic Region Clean Air Agency. “Executive Director” means the same as “Control Officer.”

**“Construction”** means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

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

**“Daylight Hours”** means the hours between official sunrise and official sunset.

**“Ecology”** means the Washington State Department of Ecology.

**“Emission”** means a release of air contaminants into the ambient air.

**“Emission Point”** means the location (place in horizontal plane and vertical elevation) at which an emission enters the atmosphere.

**“Emission reduction credit (ERC)”** means a credit granted pursuant to chapter 173-400 WAC. This is a voluntary reduction in emissions.

**“Emission Standard”** and “Emission Limitation” means requirements established under the Federal Clean Air Act or chapter 70.94 RCW which limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the operation or maintenance of a stationary source to assure continuous emission reduction and any design, equipment work practice, or operational standard adopted under the Federal Clean Air Act, chapter 70.94 RCW.

**“Emission Unit”** means any part of a stationary source or source which emits or would have a potential to emit any pollutant subject to regulation under the Federal Clean Air Act, chapter 70.94 or 70.98 RCW.

**“EPA”** means the United States Environmental Protection Agency (USEPA).

**“Equipment”** means any stationary or portable device, or any part thereof, capable of causing the emission of any air contaminant into the atmosphere.

**“Establishment”** means the act of establishing, which means creating, setting up, or putting into practice any equipment, material, fuel, or operational change.

**“Excess Emission”** means emissions of an air pollutant in excess of an applicable emission standard.

**“Facility”** means all emission units in the same industrial grouping located on contiguous or adjacent properties and under common ownership and control.

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

**“Federally Enforceable”** means all limitations and conditions which are enforceable by EPA, including those requirements developed under 40 CFR Parts 60, 61, and 63, requirements within the Washington SIP, requirements within any permit established under 40 CFR 52.21 or order of approval under a SIP approved new source review regulation, or any voluntary limits on emissions pursuant to Rule 6.1.12 or WAC 173-400-091.

**“Fuel Burning Equipment”** means any equipment, device or contrivance used for the burning of any fuel, and all appurtenances thereto, including ducts, breechings, control equipment, fuel feeding equipment, ash removal equipment, combustion controls, stacks, chimneys, etc., used for indirect heating in which the material being heated is not contacted by and adds no substances to the products of combustion.

**“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.

**“Fugitive Emission”** means emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

**“Garbage”** means refuse, animal or vegetable matter as from a kitchen, restaurant or store.

**“Good Engineering Practice (GEP)”** refers to a calculated stack height based on the equation specified in WAC 173-400-200(2)(a)(ii).

**“Hogged-fuel”** means wood slabs, edging, trimmings, etc., which have been put through a “hog” to reduce them to a uniform small size, and also includes shavings from planing mills, sawdust from saw-kerfs, bits of bark, chips and other small recovered products from the manufacture of wood products or any combination thereof.

**“Incinerator”** means a furnace used primarily for the thermal destruction of waste.

**“In Operation”** means engaged in activity related to the primary design function of the source.

**“Installation”** means the act of installing, which means placing, assembling or constructing equipment or control equipment at the premises where the equipment or control equipment will be used, and includes all preparatory work at such premises.

**“Light Detection and Ranging (LIDAR)”** means the EPA alternate method 1 determination of the opacity of emissions from stationary sources remotely by LIDAR.

**“Lowest Achievable Emission Rate (LAER)”** means for any stationary source that rate of emissions which reflects the more stringent of:

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

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

**“Major Modification”** is defined depending on the attainment status of the area in which the project is located, or planned to be located, as follows:

- (a) Nonattainment Areas. “Major Modification” as it applies in nonattainment areas means any physical change or change in 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 Federal Clean Air Act.
  - (1) Any net emissions increase that is considered significant for volatile organic compounds or nitrogen oxides shall be considered significant for ozone.
  - (2) A physical change or change in method of operation shall not include:
    - (i) Routine maintenance, repair and replacement;
    - (ii) Use of an alternative fuel or raw material by reason of an order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;
    - (iii) Use of an alternative fuel by reason of an order or rule under section 125 of the Federal Clean Air Act;
    - (iv) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
    - (v) Use of an alternative fuel or raw material by a stationary source which: The stationary source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit or approval order condition which was established after December 12, 1976, pursuant to 40 CFR 52.21 or a SIP approved new source review regulation; or the stationary source is approved to use under any major new source review permit or approval order issued under Rule 6.1.4(b) or WAC 173-400-112;
    - (vi) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit or approval order condition which was established after

December 21, 1976, pursuant to 40 CFR 52.21 or a SIP approved new source review regulation.

- (vii)** Any change in ownership at a stationary source.
  - (viii)** The addition, replacement, or use of a pollution control project (as defined in 40 CFR 51.165(a)(1)(xxv), in effect on July 1, 2001) at an existing electric utility steam generating unit, unless the permitting agency determines that such addition, replacement, or use renders the unit less environmentally beneficial, or except:

    - (A)** When the permitting agency has reason to believe that the pollution control project would result in a significant net emissions increase in representative actual annual emissions of any criteria pollutant over levels used for that stationary source in the most recent air quality impact analysis in the area conducted for the purpose of title I of the Federal Clean Air Act, if any; and
    - (B)** The permitting agency determines that the increase will cause or contribute to a violation of any National Ambient Air Quality Standard or PSD increment, or visibility limitation.
  - (ix)** The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

    - (A)** The SIP; and
    - (B)** Other requirements necessary to attain and maintain the National Ambient Air Quality Standard during the project and after it is terminated.
- (b)** Attainment or unclassified areas. “Major Modification” as it applies in attainment or unclassified areas 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 Federal Clean Air Act.
- (1)** Any net emissions increase that is considered significant for volatile organic compounds or nitrogen oxides shall be considered significant for ozone.
  - (2)** A physical change or change in the method of operation shall not include:

    - (i)** Routine maintenance, repair and replacement;
    - (ii)** Use of alternative fuel or raw material by reason of an order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;
    - (iii)** Use of an alternative fuel by reason of an order or rule section 125 of the Federal Clean Air Act;

- (iv) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
- (v) Use of an alternative fuel or raw material by a stationary source which:
  - (A) The stationary source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition or approval order which was established after January 6, 1975, pursuant to 40 CFR 52.21 or a SIP approved new source review regulation; or
  - (B) The stationary source is approved to use under any PSD permit;
- (vi) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition or an approval order which was established after January 6, 1975, pursuant to 40 CFR 52.21 or a SIP approved new source review regulation.
- (vii) Any change in ownership at a stationary source.
- (viii) The addition, replacement, or use of pollution control project at an existing electric utility steam generating unit, unless the permitting agency determines that such addition, replacement, or use renders the unit less environmentally beneficial, or except:
  - (A) When the permitting agency has reason to believe that the pollution control project (as defined in 40 CFR 51.166, in effect on July 1, 2001) would result in a significant net emissions increase in representative actual annual emissions of any criteria pollutant over levels used for that stationary source in the most recent air quality impact analysis in the area conducted for the purpose of title I of the Federal Clean Air Act, if any; and
  - (B) The permitting agency determines that the increase will cause or contribute to a violation of any National Ambient Air Quality Standard or PSD increment, or visibility limitation.
- (ix) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with the SIP, and other requirements necessary to attain and maintain the National Ambient Air Quality Standard during the project and after it is terminated.

**“Major Stationary Source”** is defined depending on the attainment status of the area in which the stationary source is located, or planned to be located as follows:

- (a) Nonattainment areas. “Major Stationary Source” as it applies in nonattainment areas means:

- (1) Any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Federal Clean Air Act, except that lower emissions thresholds shall apply as follows:
  - (i) 70 tons per year of PM<sub>10</sub> in any “serious” nonattainment area for PM<sub>10</sub>.
  - (ii) 50 tons per year of carbon monoxide in any “serious” nonattainment area for carbon monoxide where stationary sources contribute significantly to carbon monoxide levels in the area.
- (2) Any physical change that would occur at a stationary source not qualifying under (b)(1) of this rule as a major stationary source, if the change would constitute a major stationary source by itself.
- (3) A major stationary source that is major for volatile organic compounds or NO<sub>x</sub> shall be considered major for ozone.
- (4) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this paragraph whether it is a major stationary source, unless the stationary source belongs to one of the following categories of stationary sources or the stationary source is a major stationary source due to (b)(1)(i) or (b)(1)(ii) of this rule:
  - (i) Coal cleaning plants (with thermal dryers);
  - (ii) Kraft pulp mills;
  - (iii) Portland cement 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 50 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 250 million British thermal units per hour heat input;
  - (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 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 250 million British thermal units per hour heat input; and
- (xxvii)** Any other stationary source category, which, as of August 7, 1980, is being regulated under section 111 of 113 of the Federal Clean Air Act.

**(5)** 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 person 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, as amended.

**(b)** Attainment or unclassified areas. “Major Stationary Source” as it applies in attainment or unclassified areas means:

**(1)** Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Federal Clean Air Act:

- (i)** Fossil fuel fired steam electric plants of more than 250 million British thermal units per hour heat input;
- (ii)** Coal cleaning plants (with thermal dryers);
- (iii)** Kraft pulp mills;
- (iv)** Portland cement plants;
- (v)** Primary zinc smelters;
- (vi)** Iron and steel mill plants;
- (vii)** Primary aluminum ore reduction plants;
- (viii)** Primary copper smelters;
- (ix)** Municipal incinerators capable of charging more than 50 tons of refuse per day;
- (x)** Hydrofluoric, sulfuric, and nitric acid plants;
- (xi)** Petroleum refineries;
- (xii)** Lime plants;
- (xiii)** Phosphate rock processing plants;
- (xiv)** Coke oven batteries;
- (xv)** Sulfur recovery plants;
- (xvi)** Carbon black plants (furnace process);
- (xvii)** Primary lead smelters;
- (xviii)** Fuel conversion plants;
- (xix)** Sintering Plants;
- (xx)** Secondary metal production plants;
- (xxi)** Chemical process plants;
- (xxii)** Fossil fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input;



- (xxiii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
  - (xxiv) Taconite ore processing plants;
  - (xxv) Glass fiber processing plants; and
  - (xxvi) Charcoal production plants.
- (2) Regardless of the stationary source size specified in (b)(1) of this rule, any stationary source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under the Federal Clean Air Act; or
  - (3) Any physical change that would occur at a stationary source not otherwise qualifying under (b)(1) or (b)(2) of this rule, as a major stationary source if the change would constitute a major stationary source by itself.
  - (4) A major stationary source that is major for volatile organic compounds or NO<sub>x</sub> shall be considered major for ozone.
  - (5) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this rule whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:
    - (i) Coal cleaning plants (with thermal dryers);
    - (ii) Kraft pulp mills;
    - (iii) Portland cement 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 50 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 250 million British thermal units per hour heat input;
    - (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 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 250 million British thermal units per hour heat input;
- (xxvii) Any other stationary source category, which, as of August 7, 1980, is being, regulated under section 111 or 112 of the Federal Clean Air Act.

- (6) 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.

“**Masking**” means the mixing of a chemically nonreactive control agent with a malodorous gaseous effluent to change the perceived odor.

“**Material Handling**” means the handling, transporting, loading, unloading, storage, and transfer of material with no significant chemical or physical alteration.

“**Modification**” means any physical change in, or change in the method of operation of, a stationary source that increases the amount of any air contaminant emitted by such stationary source or that result 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.

“**National Ambient Air Quality Standards (NAAQS)**” means an ambient air quality standard set by EPA at 40 CFR Part 50 and includes standards for carbon monoxide (CO), particulate matter, ozone (O<sub>3</sub>), sulfur dioxide (SO<sub>2</sub>), lead (Pb), and nitrogen dioxide (NO<sub>2</sub>).

“**National Emission Standards for Hazardous Air Pollutants (NESHAP)**” means the federal rules in 40 CFR Part 61.

“**National Emission Standards for Hazardous Air Pollutants for Source Categories**” means the federal rules in 40 CFR Part 63.

“**Net Emissions Increase**” is defined depending on the attainment status of the area in which the new stationary source or modification is located, or planned to be located, as follows:

- (a) Nonattainment areas. “Net Emissions Increase” as it applies in nonattainment areas means:
  - (1) The amount by which the sum of the following exceeds zero:
    - (i) Any increase in actual emissions from a particular physical change or change in method of operation at a stationary source; and

- (ii) Any other increases and decreases in actual emissions at the stationary source that are contemporaneous with the particular change and are otherwise creditable.
  - (2) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs.
  - (3) 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 (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) The permitting agency has not relied on it in issuing any permit or order of approval for the stationary source under this rule or a previous SIP approved nonattainment area new source review regulation, which order or permit is in effect when the increase in actual emissions from the particular change occurs.
  - (4) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
  - (5) 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 to the increase from the particular change; and
    - (iv) The permitting agency has not relied on it in issuing any permit or order of approval under this rule or a SIP approved nonattainment area new source review regulation; or the permitting agency has not relied on it in demonstrating attainment or reasonable further progress.
  - (6) An increase that results from a physical change at a stationary 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 (180) days.
- (b) Attainment or unclassified areas. "Net Emissions Increase" as it applies in attainment or unclassified areas means:
- (1) The amount by which the sum of the following exceeds zero:

- (i) Any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and
  - (ii) Any other increases and decreases in actual emission at the stationary source that are contemporaneous with the particular change and are otherwise creditable.
- (2) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within five years before the date that the increase from the particular change occurs.
  - (3) An increase or decrease in actual emissions is creditable only if ecology or EPA has not relied on it in issuing a PSD permit for the stationary source, which permit is in effect when the increase in actual emissions from the particular change occurs.
  - (4) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides, which occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only PM<sub>10</sub> emissions can be used to evaluate the net emissions increase for PM<sub>10</sub>.
  - (5) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
  - (6) 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; and
    - (iii) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.
  - (7) An increase that results from a physical change at a stationary source occurs when the emissions 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 (180) days.

**“New Source”** means:

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

**“New Source Performance Standards (NSPS)”** means the federal rules set forth in 40 CFR Part 60.

**“Nonattainment Area”** means a geographic area designated by EPA at 40 CFR Part 81 as exceeding a national ambient air quality standard (NAAQS) for a given criteria pollutant. An area is nonattainment only for the pollutants for which the area has been designated nonattainment.

**“Nonroad Engine”** means:

- (a) Except as discussed in (b) of this rule, a nonroad engine is any internal combustion engine:
  - (1) In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers); or
  - (2) In or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or
  - (3) That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.
  
- (b) An internal combustion engine is not a nonroad engine if:
  - (1) The engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under section 202 of the Federal Clean Air Act; or
  - (2) The engine is regulated by a New Source Performance Standard promulgated under section 111 or 112 of the Federal Clean Air Act; or
  - (3) The engine otherwise included in (a)(3) of this rule remains or will remain at a location for more than twelve consecutive months or a shorter period of time for an engine located at a seasonal source. A location is a single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that operates at a single location approximately three months (or more) each year. The paragraph does not apply to an engine after the engine is removed from the location.

**“Notice of Construction Application”** means a written application to permit construction, installation or establishment of a new stationary source, modification of an existing stationary source, or replacement or substantial alteration of control technology at an existing stationary source.

**“Nuisance”** means an emission that unreasonably interferes with the use and enjoyment of property.

**“Olympic Air Pollution Control Authority (OAPCA)”** is the former name of Olympic Region Clean Air Agency (ORCAA). Reference to “OAPCA” shall mean ORCAA.

**“Opacity”** means the degree to which an object seen through a plume is obscured, stated as a percentage.

**“Order”** means any order issued by ecology or a local air agency pursuant to chapter 70.94 RCW, including, but not limited to RCW 70.94.332, 70.94.211, 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.

**“Order of Approval”** or **“Approval Order”** means a regulatory order issued by Ecology of the Agency to approve the Notice of Construction application for a proposed new source or modification, or the replacement or substantial alteration of control technology at an existing stationary source.

**“Owner”** means person, agent, lessor, lessee, possessor, manager, supervisor, operator, or other responsible party of real property or other assets which includes equipment or control apparatus.

**“Ozone Depleting Substance”** means any substance listed in Appendices A and B to Subpart A of 40 CFR part 82.

**“Particulate Matter”** or **“Particulates”** means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

**“Parts Per Million (ppm)”** means parts of a contaminant per million parts of gas, by volume, exclusive of water or particulates.

**“Permit”** means a written warrant or license granted by the Board, Control Officer, or duly authorized Representative or Agent.

**“Permitting Agency”** means ecology or the local air pollution control agency with jurisdiction over the source.

**“Person”** means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality or government agency.

**“PM<sub>10</sub>”** 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.

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

**“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 stationary source to emit a pollutant including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a source.

**“Prevention of Significant Deterioration (PSD)”** means the program in WAC 173-400-141. Ecology is responsible for the PSD program for stationary sources in ORCAA’s jurisdiction. Contact Ecology at (360) 407-6800 for more information.

**“Process”** means any equipment, device apparatus, chemical, natural element, procedure, effort, or any combination thereof which performs a service, function, use, or method, leading to an end of a particular performance, or manufacturing production.

**“Reasonably Available Control Technology (RACT)”** means the lowest emission limit that a particular stationary source or stationary source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual stationary source or stationary source category taking into account the impact of the stationary source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for any stationary source or stationary source category shall be adopted only after notice and opportunity for comment are afforded.

**“Refuse”** means waste as defined in Rule 1.4 of this Regulation.

**“Regulation”** means any regulation, or any subsequently adopted additions or amendments thereto, of the Olympic Region Clean Air Agency.

**“Regulatory Order”** means an order issued by Ecology or an Agency to an air contaminant source that applies to that source, any applicable provision of chapter 70.94 RCW, or the rules adopted there under, or, for sources regulated by a local air agency, the regulations of that agency.

**“Representative”** or **“Agent”** means any person authorized by the Control Officer of the Agency to represent him in an official and specific manner.

**“Residential”** means a two or single-family unit.

**“Secondary Emissions”** means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification that causes the secondary emissions. Secondary emissions may include, but are not limited to:

- (a) Emissions from ships or trains located at the new modified stationary source; and,
- (b) Emissions from any off-site support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

“Significant” is defined depending on the attainment status of the area:

- (a) Nonattainment areas. “Significant” as it applies in nonattainment areas means, in reference to a net emissions increase or the stationary source’s potential to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate	
Carbon monoxide:	100 tons per year (tpy)
Nitrogen oxides:	40 tpy
Sulfur dioxide:	40 tpy
Volatile organic compounds:	40 tpy
Lead:	0.6 tpy
PM-10:	15 tpy

- (b) Attainment or unclassified areas. “Significant” as it applies in attainment or unclassified areas means:

- (1) In reference to a net emissions increase or the stationary source’s potential to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate	
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Particulate matter (PM)	25 tpy of PM emissions 15 tpy of PM-10 emissions
Volatile organic compounds	40 tpy
Fluorides	3 tpy
Lead	0.6 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide (H <sub>2</sub> S)	10 tpy
Total reduced sulfur (including H <sub>2</sub> S)	10 tpy
Reduced sulfur compounds (including H <sub>2</sub> S)	10 tpy
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	3.2 grams per year (0.112 oz. per year or 49 grains per year)



Municipal waste combustor metals (measured as particulate matter)	14 megagrams per year (15 tpy)
Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride)	36 megagrams per year (40 tpy)
Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	45 megagrams per year (50 tpy)
Ozone-depleting substances (in effect on July 1, 2000)	100 tpy

- (2) In reference to a new emissions increase or the stationary source's potential to emit a pollutant subject to regulation under the Federal Clean Air Act that the definition in (b)(1) of this rule does not list, any emissions rate. However, for purposes of the applicability of this rule, the hazardous air pollutants listed under section 112(b) of the Federal Clean Air Act, including the hazardous air pollutants that may have been added to the list, are not considered subject to regulation.
- (3) Regardless of the definition in (b)(1) of this rule, significant means any emissions rate or any net emissions increase associated with a major stationary source or major modification which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than 1 microgram per cubic meter (twenty four hour average).

**“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.

**“Source Category”** means all sources of the same type of classification.

**“Stack”** means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct.

**“Stack Height”** means the height of an emission point measured from the ground-level elevation at the base of the stack.

**“Standard Conditions”** means a temperature of 20°C (68°F) and a pressure of 760 mm (29.92 inches) of mercury.

**“Standard Cubic Foot of Gas”** means that amount of the gas, which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor and at standard conditions.

**“State Act”** means the Washington Clean Air Act, chapter 70.94 RCW, as amended.

**“State Implementation Plan (SIP)”** or the “Washington SIP” in 40 CFR Part 52, subpart WW. The SIP contains state, local and federal regulations and orders, the state plan and compliance schedules approved and promulgated by EPA, for the purpose of implementing, maintaining, and enforcing the National Ambient Air Quality Standards.

**“Stationary Source”** means any building, structure, facility, or installation, which emits or may emit any air contaminant. This term does not include emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in section 216(11) of the Federal Clean Air Act.

**“Synthetic Minor”** means any stationary source that’s potential to emit has been limited below applicable thresholds by means of a federally enforceable order, rule, or permit condition.

**“Temporary”** means a period of time not to exceed one (1) year.

**“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.

**“Total Suspended Particulate (TSP)”** means particulate matter as measured by the method described in 40CFR Part 50 Appendix B.

**“Toxic Air Pollutant (TAP)”** or **“Toxic Air Contaminant”** means any Class A or Class B toxic air pollutant listed in WAC 173-460-150 and WAC 173-460-160. The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150 and/or WAC 173-460-160. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes or compounds.

**“True Vapor Pressure”** means the equilibrium partial pressure exerted by the stored organic compound at:

- (a) The annual average temperature of the organic compound as stored; or
- (b) At the local annual average temperature as reported by the National Weather Service if stored at ambient temperature.

**“Unclassifiable Area”** means an area that cannot be designated attainment or nonattainment on the basis of available information as meeting or not meeting the National Ambient Air Quality Standard for the criteria pollutant that is listed by EPA at 40 CFR part 81.

**“United States Environmental Protection Agency (USEPA)”** shall be referred to as EPA.

**“Vent”** means any opening through which gaseous emissions are exhausted into the ambient air.

**“Volatile Organic Compound (VOC)”** means any carbon compound that participates in atmospheric photochemical reactions.

- (a) Exceptions. The following compounds are not a VOC:
- Acetone;
  - carbon monoxide;
  - carbon dioxide;
  - carbonic acid;
  - metallic carbides or carbonates;
  - ammonium carbonate;
  - dimethyl carbonate;
  - propylene carbonate;
  - methane;
  - ethane;
  - methylene chloride (dichloromethane);
  - 1,1,1-trichloroethane (methyl chloroform);
  - 1,1,2-trichloro 1,2,2-trifluoroethane (CFC-113);
  - trichlorofluoromethane (CFC-11);
  - dichlorodifluoromethane (CFC-12);
  - chlorodifluoromethane (HCFC-22);
  - trifluoromethane (HFC-23);
  - 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
  - chloropentafluoroethane (CFC-115);
  - 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
  - 1,1,1,2-tetrafluoroethane (HCFC-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);
  - parachlorobenzotribluoride (PCBTf);
  - cyclic, branched, or linear completely methylated siloxanes;
  - perchloroethylene (tetrachloroethylene);
  - 3,3-dichloro 1,1,1,2,2-pentafluoropropane (HCFC-225ca);
  - 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
  - 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
  - difluoromethane (HFC-32);
  - ethylfluoride (HFC-161);
  - 1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
  - 1,1,2,2,3-pentafluoropropane (HFC-254ca);
  - 1,1,2,3,3-pentafluoropropane (HFC-245ea);
  - 1,1,1,2,3-pentafluoropropane (HFC-245eb);
  - 1,1,1,3,3-pentafluoropropane (HFC-245fa);
  - 1,1,1,2,3,3-hexafluoropropane (HFC-236ea);
  - 1,1,1,3,3-pentafluorobutane (HFC-365mfc);
  - chlorofluoromethane (HCFC-31);
  - 1-chloro-1-fluoroethane (HCFC-151a);
  - 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);
  - 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C<sub>4</sub>F<sub>9</sub>OCH<sub>3</sub>);

2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane  
((CF<sub>3</sub>)<sub>2</sub>CFCF<sub>2</sub>OCH<sub>3</sub>);  
1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C<sub>4</sub>F<sub>9</sub>OC<sub>2</sub>H<sub>5</sub>);  
2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF<sub>3</sub>)<sub>2</sub>(CFCF<sub>2</sub>OC<sub>2</sub>H<sub>5</sub>);  
methyl acetate 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;
  - (iii) Cyclic, branched, or linear completely fluorinated tertiary amines with no unsaturations; and
  - (iv) 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 the method also measures compounds with negligible photochemical reactivity, these negligibly reactive compounds may be excluded as VOC if the amount of the compounds is accurately quantified, and the exclusion is approved by ecology, the Agency, or EPA.
- (c) As a precondition to excluding these negligibly reactive compounds as VOC or at any time thereafter, ecology or the Agency may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the Agency, the amount of negligibly reactive compounds in the source's emissions.

#### **RULE 1.5 CONTROL OFFICER – POWERS AND DUTIES**

- (a) The Control Officer shall observe and enforce the provisions of state law and all orders, ordinances, resolutions or rules and regulations of the Agency pertaining to control and prevention of air pollution in accordance with the policies of the Board of Directors.
- (b) At least thirty days prior to the commencement of any formal enforcement action under RCW 70.94.430 or 70.94.431, whenever the Control Officer has reason to believe that any provision of state law or any regulation relating to the control or prevention of air pollution has been violated, the Control Officer may cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of state law or the regulation alleged to be violated and the facts alleged to constitute a violation thereof and may include an order that necessary corrective action be taken within a specified time. In lieu of an order, the Control Officer may require that the alleged violator or violators appear before the Board for a hearing, at a time and place specified in the notice, given at least twenty (20) days prior to such hearing, and answer the charges.
- (c) The Control Officer and/or a qualified designated agent may make any investigation or study which is necessary for the purpose of enforcing these Regulations or any amendment thereto of controlling or reducing the amount or kind of air contaminant.
- (d) The Control Officer may obtain from any person, subject to the jurisdiction of the Agency, such information or analysis as will disclose the nature, extent, quantity

- or degree of air contaminants which are, or may be, discharged by such source and type or nature of control equipment in use.
- (e) For the purposes of investigating conditions specific to the control, recovery or release of air contaminants into the atmosphere, the Control Officer or a duly authorized representative shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing two families or less. No person shall refuse entry or access to the Control Officer, or a duly authorized representative, who request entry for the purpose of inspection, and who presents appropriate credentials; nor shall any person obstruct, hamper or interfere with any such inspection by the Control Officer, or a duly authorized representative.
  - (f) If during the course of an inspection, the Control Officer or a duly authorized representative desires to obtain a sample of air contaminant, fuel, or process material or other material which affects or may affect the emission of air contaminants, the Control Officer or a designated agent shall notify the owner or operator of the time and place of obtaining a sample so the owner or operator has the opportunity to take a similar sample at the same time and place; and the Control Officer or a duly authorized representative shall give a receipt to the owner or operator for the sample obtained.
  - (g) The Control Officer may engage, at the Agency's expense and with Board approval, qualified individuals or firms to make independent studies and reports as to the nature, extent, quantity or degree of any air contaminants which are or may be discharged from any source.
  - (h) The Control Officer is empowered to sign official complaints or issue citations or initiate court suits or use other means to enforce the provisions of the Regulations.
  - (i) In order to demonstrate compliance with emission standards, the Control Officer shall have the authority to require a source to be tested, either by the Agency personnel or by the owner, using source test procedures approved by the Agency. The owner shall be given reasonable advance notice of the requirement of the test.
  - (j) In order for Agency personnel to perform a source test, the Control Officer shall have the authority to require the owner of the source to provide an appropriate platform and sampling ports. The owner shall have the opportunity to observe the sampling and, if there is adequate space to conduct the tests safely and efficiently, to obtain sample at the same time.

#### **RULE 1.6 CONFIDENTIAL INFORMATION**

Whenever any record or other information, other than ambient air quality data or emissions data, furnished to or obtained by the Agency, pursuant to any sections in chapter 70.94 RCW, relate to processes or production unique to the owner or operator or are likely to affect adversely the competitive position of such owner or operator if released to the public or to the competitor, and the owner or operator of such processes or production so certifies, such records or information shall be only for the confidential use of the Agency.

Nothing herein shall be construed to prevent the use of records or information by the Agency in compiling or publishing analysis or summaries relating to the general condition of the outdoor atmosphere: Provided, that such analysis or summaries do not reveal any information

otherwise confidential under the provisions of this rule: Provided further, that emission data furnished to or obtained by the Agency shall be correlated with applicable emission limitations and other control measures and shall be available for public inspection during normal business hours at offices of the Agency.

#### **RULE 1.7 APPOINTMENT OF HEARING OFFICER**

- (a) In all instances where the Board is permitted or required to hold hearings under the provisions of chapter 70.94 RCW, such hearings shall be held before the Board; or the Board may appoint a hearing officer, who shall be the Executive Director of the Agency or his/her designee to hold such hearings.
- (b) A duly appointed hearing officer shall have all the powers, rights and duties of the Board relating to the hearings.

#### **RULE 1.8 APPEALS FROM BOARD ORDERS**

- (a) Any order issued by the Agency shall become final unless such order is appealed to the Hearings Board as provided in chapter 43.21B RCW. The sole basis for appeal of a fee assessed by the Control Officer or Board shall be that the assessment contains an arithmetic or clerical error.
- (b) Any order issued by the Agency may be appealed to the Pollution Control Hearings Board if the appeal is filed with the Hearings Board and served on the Agency within thirty (30) days after receipt of the order in accordance with chapter 371-08 WAC. This is the exclusive means of appeal of such an order.
- (c) The Agency in its discretion may stay the effectiveness of an order during the pendency of such an appeal.
- (d) At any time during the pendency of such an appeal of such an order to the Pollution Control Hearings Board, the appellant or other affected parties may apply to the Hearings Board pursuant to chapter 43.21B RCW and chapter 371-08 WAC for a stay of the order or the removal thereof.

#### **RULE 1.9 SEVERABILITY**

If any phrase, clause, or rule of these Regulations shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the Board of Directors would have enacted these Regulations without the phrase, clause, or rule so held unconstitutional or invalid; and the remainder of the Regulations shall not be affected as a result of said part being held unconstitutional or invalid.

#### **RULE 1.10 SERVICE OF NOTICE**

- (a) Service of any written notice required by ORCAA Regulations shall be made on the owner(s) as follows:
  - (1) Either by mailing the notice in a prepaid envelope directed to the owner at the address listed on their application, order, registration certificate, or at the address where the equipment is located, by United States Certified Mail, return receipt requested; or

- (2) By leaving the notice with the owner or if the owner is not an individual, with a member of the partnership or other group concerned, or with an officer, registered agent or managing agent of the corporation.
- (b) Service of any written notice required by ORCAA Regulations shall be made on the Agency, as follows:
- (1) Either by mailing the notice in a prepaid envelope directly to the Agency at its office by United States Certified Mail, return receipt requested; or
  - (2) By leaving the notice at the Agency office with an employee of the Agency.





## **REGULATION 2 – ENFORCEMENT PROCEDURES AND PENALTIES**

### **RULE 2.1 VOLUNTARY COMPLIANCE**

Nothing in this Regulation shall prevent the Agency from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

### **RULE 2.3 VARIANCES**

Any person who owns or is in control of any plant, building, structure, establishment, process or equipment may apply to the Control Officer or the Board for a variance to exceed a specific maximum emission standard of these Regulations for a limited period of time, except for any federally enforceable standard, provided that a variance to state standard is also approved by the Department of Ecology. The application shall be accompanied by such information and data as the Control Officer or Board may require. The Board may grant such variance but only after approval by the Department of Ecology and public hearing or due notice and in accordance with the provisions set forth in RCW 70.94.181, as now or hereafter amended. Any hearing held pursuant to this rule shall be conducted in accordance with the rules of evidence as set forth in RCW 34.04.100, as now or hereafter amended. The Agency shall not commence processing a variance request, until it has received a filing fee as determined by Table 3.3a, Plan Examination and Inspection Fee, Rule 3.3.

### **RULE 2.4 NOTICES OF VIOLATIONS**

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

- (a) Each act of commission or omission which procures, aids, or abets in the violation shall be considered a violation and be subject to the same penalty.
- (b) In case of a continuing violation, whether or not knowingly committed, each day's continuance shall be a separate and distinct violation.

### **RULE 2.5 REGULATORY ACTIONS AND PENALTIES**

The Control Officer may take any of the following regulatory actions to enforce the provisions of chapter 70.94 RCW or any of the rules or regulations in force pursuant thereto, which are incorporated by reference.

- (a) Civil Penalties

- (1) Any person who violates any of the provisions of chapter 70.94 RCW or any of the rules or regulations in force pursuant thereto may incur a civil penalty in an amount not to exceed \$14,915.00 per day for each violation.
- (2) Any person who fails to take action as specified by an Order issued pursuant to chapter 70.94 RCW or Regulations of the Olympic Region Clean Air Agency (ORCAA) shall be liable for a civil penalty of not more than \$14,915.00 for each day of continued noncompliance.
- (3) Within 30 days after receipt of Notice of Civil Penalty, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. Any such request must contain the following:
  - (i) The name, mailing address, and telephone number of the appealing party;
  - (ii) A copy of the Notice of Civil Penalty appealed from;
  - (iii) A short and plain statement showing the grounds upon which the appealing party considers such Order to be unjust or unlawful;
  - (iv) A clear and concise statement of facts upon which the appealing party relies to sustain his or her grounds for appeal;
  - (v) The relief sought, including the specific nature and extent; and
  - (vi) A statement that the appealing party has read the notice of appeal and believes the contents to be true followed by the party's signature.

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

- (4) Any civil penalty may also be appealed to the Pollution Control Hearings Board pursuant to chapter 43.21B RCW and chapter 371-08 WAC if the appeal is filed with the Hearings Board and served on the Agency within 30 days after receipt by the person penalized of the notice imposing the penalty or 30 days after receipt of the notice of disposition of the application for relief from penalty.
- (5) A civil penalty shall become due and payable on the later of:
  - (i) 30 days after receipt of the notice imposing the penalty;
  - (ii) 30 days after receipt of the notice of disposition on application for the relief from penalty, if such application is made; or
  - (iii) 30 days after receipt of the notice of decision of the Hearings Board if the penalty is appealed.
- (6) If the amount of the civil penalty is not paid to the Agency within 30 days after it becomes due and payable, the Agency may use any available methods, including Superior Court, to recover the penalty. In all actions brought in the Superior Court for recovery of penalties hereunder, the procedure and rules of evidence shall be the same as in ordinary civil action.

- (7) To secure the penalty incurred under this rule, this Agency shall have a lien on any vessel used or operated in violation of these Regulations, which shall be enforced as provided in RCW 60.36.050.

(b) Criminal Penalties

- (1) Any person who knowingly violates any of the provisions of chapter 70.94 RCW or any rules or regulations in force pursuant thereto, shall be guilty of a crime and upon conviction thereof, shall be punished by fine of not more than \$10,000.00, or by imprisonment in the county jail for not more than 1 year, or by both for each separate violation.
- (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 terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm shall be guilty of a crime and shall, upon conviction, be punished by a fine of not more than \$10,000.00, or by imprisonment for not more than 1 year, or both.
- (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 they have thereby placed another person in imminent danger of death or substantial bodily harm shall be guilty of a crime and shall, upon conviction, be punished by a fine of not less than \$50,000.00, or by imprisonment for not more than 5 year, or both.

(c) Additional Enforcement

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

## **RULE 2.6 COMPLIANCE SCHEDULES**

- (a) Issuance. Whenever a source is found to be in violation of an emission standard or other provision of ORCAA's Regulations or chapter 70.94 RCW or title 173 WAC or any applicable federal regulation the Agency 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, which shall constitute a compliance schedule.
- (b) The source, including any person who owns or is in control of any plant, building, structure, establishment, process or equipment, which is in violation of an emission standard or other provision of ORCAA's Regulations or chapter 70.94 RCW or title 173 WAC may submit a proposed Compliance Schedule to the Board for approval. The proposed Compliance Schedule must meet the requirements of this rule, and shall be accompanied by such information and data as the Control Officer or the Board may require.
- (c) Public Noticing. Compliance Schedules must meet the requirements for public involvement in accordance with chapter 70.94 RCW as now or hereafter amended. Any hearing held pursuant to this rule shall be conducted in accordance with the Rules of Evidence as set forth in RCW 34.04.100, as now or hereafter amended.
- (d) Federal Action. A source shall be considered to be in compliance with this rule if all the provisions of its individual compliance schedule, including those stated by 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.
- (e) 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. In addition, failure at any phase to make progress towards compliance pursuant to any Compliance Schedule accepted by the Board shall be deemed an unreasonable delay and in violation of the terms of said Compliance Schedule and the Board or Control Officer may require that the responsible person appear before the Board to explain the delay and show cause why abatement action should not be started, enforcement action taken, and/or the Compliance Schedule revoked.
- (f) Fee for Compliance Schedule. The Agency shall not commence processing a compliance schedule request until it has received a filing fee as determined by Rule 3.3.

## REGULATION 3 – FEES

### Rule 3.1 Annual Registration fees

- (a) The Agency shall charge Initial and Annual registration fees pursuant to RCW 70.94.151. Annual registration fees shall be assessed according to the annual fee schedules set forth in Rule 3.1(b) below. Initial registration fees shall be assessed upon initial registration of a source and shall equal the annual registration fee based on projected emissions and prorated for the remaining months in the fiscal year. Initial and Annual registration fees shall provide revenue to fund the Agency's ongoing Registration Program.
- (b) All sources requiring registration shall be assessed an annual registration fee; the fees required by this rule shall be based on process rates, equipment specifications, and emissions data from the previous calendar year on file with the Agency, provided that, if this information is not on file with the Agency, the Agency may base the annual fee on the enforceable emissions limitations for the source and maximum capacities and production rates. For purposes of assessing annual registration fees, the Agency shall consider updates and revisions to any source's file received prior to July 1 of the current year. The fees shall be assessed according to items (1) and (2) of this rule. Sources assessed annual operating permit fees under Rule 3.2 shall not be assessed annual fees under this rule.
  - (1) An Emissions Fee of an amount as indicated in Table 3.1a per ton of each air contaminant listed in Table 3.1b that is emitted by the source. The emissions fee shall be based on actual emissions from the source, for the last calendar year when available, or as specified in the file or permit. Only non-VOC TAPs will be subject to the emission fee; and
  - (2) A Registration Class Fee of an amount as specified in Table 3.1a.
- (c) The Agency shall assess annual registration fees after August 1 of each year to cover the cost of administering the program for the current fiscal year commencing July 1 and ending June 30. The agency shall assess annual registration fees based on the most recent information on file with the Agency including any updates to the source's file received prior to July 1 of that year.
- (d) Upon assessment by the Agency, annual registration fees are due and payable and shall be deemed delinquent if not fully paid within thirty (30) days. However, sources classified as RC1, RC2, or RC3 shall be given the option to pay their annual fee in quarterly installments. RC1, RC2, and RC3 sources may choose to pay their annual fees in quarterly installments by indicating so on the first invoice received and remitting payment of the first installment to the Agency along with the duplicate copy of the invoice. Quarterly installments shall be equal to 25% of the total annual registration fee and shall be due within 30 days of each quarter following initial assessment by the Agency.
- (e) Any source which fails to pay, in full, their annual registration fee or annual registration installment by the due date, as stated on the invoice, shall be assessed a late penalty in the amount of 25% of their annual registration fee. This late penalty shall be in addition to the annual registration fee.

- (f) Annual registration fees may be appealed according to the procedure specified in Rule 1.8.
- (g) Failure to pay annual registration fees is a violation of these Regulations and will result in the issuance of a Notice of Violation and prescribed penalties.
- (h) On an annual basis, the Agency shall conduct a workload analysis to determine the adequacy of annual registration fees in funding the Agency’s Registration Program. The workload analysis shall be based on the Agency’s historical record of time and resource expenditures associated with the registration program. The workload analysis shall be presented to the Board at least every two years. Any proposed revisions to the annual registration fee schedule shall be presented to the Board for adoption after public noticing pursuant to these Regulations public noticing requirements and opportunity for a public hearing.
- (i) All registered sources needing to be re-inspected, due to verified conditions or actions caused by the source, will be charged an additional flat rate of \$100.00 per re-inspection.

**Table 3.1a: Annual Registration Fees (RC)**

Registration Class (RC)	Registration Class Fee Amount	Emission Fee
RC1	\$1625.00	\$50.00 per ton
RC2	\$1450.00	\$50.00 per ton
RC3	\$1300.00	\$50.00 per ton
RC4	\$600.00	N/A
RC5	\$240.00	N/A

**Table 3.1b: Pollutants Considered For Fees**

Total Suspended Particulates (TSP)
Carbon Monoxide (CO)
Sulfur Oxides (SOx)
Nitrogen Oxides (NOx)
Volatile Organic Compounds (VOC)
Toxic Air Pollutants (TAP)

**RULE 3.2 OPERATING PERMIT FEES**

- (a) Fee Applicability. Any source or area source in the Agency’s jurisdiction subject to the requirement to obtain an Operating Permit pursuant to 40 CFR 70 or RCW 70.94.161 (Title V sources), except those Title V sources for which air emissions are regulated by the Washington State Department of Ecology, shall pay annual fees to the Agency according to the provisions in this rule.
- (b) Operating Permit Program Account. The Agency shall maintain a dedicated account for the Air Operating Permit Program. The account shall be funded exclusively by fee revenue from annual fees collected from Title V sources within the jurisdiction of the Agency. All fee revenue collected under Rule 3.2 shall be deposited in the Air Operating Permit account.

- (c) Operating Permit Program Funding. The sum of fees assessed by the Agency under Rule 3.2 shall be sufficient to cover all direct and indirect costs of developing and administering the Agency's Operating Permit Program including Ecology's cost for development and oversight of the Agency's Operating Permit Program, as provided in RCW 70.94.162.
- (d) Ecology Development and Oversight Fees. The Agency shall assess an annual Ecology Development and Oversight Fee to all Title V sources within the jurisdiction of the Agency. The total amount of Ecology Development and Oversight Fees assessed annually by the Agency shall equal Ecology's annual cost of development and oversight of the Agency's Operating Permit Program, as provided in RCW 70.94.162.
- (e) Annual Fees, Existing Title V Sources. The Agency shall assess an Annual Fee to all existing Title V sources. The total amount of Annual Fees assessed by the Agency to existing Title V sources shall equal the projected net annual cost to administer the Agency's Operating Permit Program during the current fiscal year.
- (f) Net Annual Cost Projections. Projected net annual cost to administer the Agency's Operating Permit Program shall be determined annually and shall equal the projected annual cost to administer the program minus any balance of funds in the Operating Permit Program account at the end of the previous fiscal year. Projected annual costs shall include all direct and indirect costs to administer the Agency's Operating Permit Program and shall be based on a workload analysis conducted by staff. Net annual cost projections including the workload analysis shall be included in the Agency's annual budget and approved by resolution of the Agency's Board of Directors in a public hearing.
- (g) Workload Analysis. Only fee eligible activities as specified below, as provided in RCW 70.94.162, shall be considered in the workload analysis conducted annually by staff. Fee eligible activities shall include:
  - (1) Preapplication assistance and review of an application and proposed compliance plan for a permit, permit revision, or permit renewal;
  - (2) Source inspections, testing, and other data gathering activities necessary for development of a permit, permit revision or renewal;
  - (3) Acting on an application for a permit, permit revision or renewal, including the cost of developing an applicable requirement as part of the processing of a permit, permit revision or renewal, preparing a draft permit and fact sheet, preparing a proposed permit, and preparing a final permit;
  - (4) Notifying and soliciting, reviewing and responding to comment from the public and contiguous states and tribes, conducting public hearings regarding the issuance of a draft permit and other costs of providing information to the public regarding operating permits and the permit issuance process;
  - (5) Modeling necessary to establish permit limits or to determine compliance with the permit limits;
  - (6) Reviewing compliance certifications and emission reports, conducting related compilation and reporting activities;
  - (7) Conducting compliance inspections, complaint investigations and other activities necessary to ensure that a source is complying with permit conditions;

- (8) Administrative enforcement activities and penalty assessment, excluding the cost of proceedings before the Pollution Control Hearings Board (PCHB) and all costs of judicial enforcement;
  - (9) The share attributable to permitted sources to the development and maintenance of emissions inventories;
  - (10) The share attributable to permitted sources of the ambient air quality monitoring and associated recording and reporting activities;
  - (11) Training for permit administration and enforcement;
  - (12) Fee determination, assessment and collection, including the cost of necessary administrative dispute resolution and enforcement;
  - (13) Required fiscal audits, periodic performance audits and reporting activities;
  - (14) Tracking of time, revenues and expenditures and accounting activities;
  - (15) Administering the permit program including costs of clerical support, supervision and management;
  - (16) Provisions of assistance to small business under jurisdiction of the Agency as required under Section 507 of the Federal Clean Air Act; and,
  - (17) Other activities required by operating permit regulations issued by EPA under the Federal Clean Air Act.
- (h) Allocation of Fees. The Annual Fee for a Title V source shall be calculated using the following three part fee allocation equation:



**Table 3.2a: Operating Permit Fee Formulas**

<p>Annual Fee = Facility Fee + Equipment Fee + Emissions Fee</p>
<p>WHERE:</p> <p>Facility Fee = (Annual Net Cost / 3) * n            Equipment Fee = [(Annual Net Cost / 3) * U<sub>total</sub>] * U<sub>source</sub>            Emissions Fee = [(Annual Net Cost / 3) * E<sub>total</sub>] * E<sub>source</sub></p> <p>Annual Net Cost = Projected net annual cost as approved by the Agency's Board of Directors.</p> <p>n = Total number of Title V sources in the Agency's jurisdiction. Note, each area source category requiring a Title V permit shall be counted as one source for purposes of determining "n." However, the facility fee for an area source category shall be divided equally among all individual area sources within the area source category.</p> <p>U<sub>total</sub> = Total number of emission units located at Title V sources in the Agency's jurisdiction.</p> <p>U<sub>source</sub> = Number of emission units at the specific Title V source. For area source categories requiring a Title V permit, "U<sub>source</sub>" is the number of individual area sources within the area source category that have been identified within the Agency's jurisdiction. However, the emission unit fee for an area source category shall be divided equally among all individual area sources within the area source category.</p> <p>E<sub>total</sub> = Total actual annual emissions of the air pollutants listed in Table 5.2b, except CO, from Title V sources based on the Agency's most recent emissions inventory.</p> <p>E<sub>source</sub> = Total actual annual emissions of the air pollutants listed in Table 5.2b, Rule 5.2, except CO, from the specific Title V source for the most recent calendar year. For area source categories requiring a Title V permit, "E<sub>source</sub>" is the total actual annual emissions from the area source category. However the Emissions Fee for an area source category shall be divided equally among all individual area sources within the area source category.</p>

- (i) Initial Fees. New Title V sources shall be assessed an Initial Fee after commencement of operation to cover the Agency's cost of administering the program for the new Title V source for the remainder of the current fiscal year. The Initial Fee for a new Title V source shall equal the Annual Fee based on Rule 3.2(h), which would otherwise be assessed if the Title V source commenced operation on or prior to the beginning of the current fiscal year, prorated by multiplying by the number of months remaining in the current fiscal year divided by 12.
- (j) Fee Assessment and Payment Schedule. The Agency shall assess Annual Fees after August 1 of each year to cover the cost of administering the program for the current fiscal year commencing on July 1 and ending on June 30. Upon receipt of a fee invoice from ORCAA, Annual Fees are due and payable and shall be deemed delinquent if not fully paid within thirty (30) days. However, option shall be given to pay Annual Fees in quarterly installments. Owners or operators may choose to pay their Annual fees in quarterly installments by indicating so on the fee invoice received and remitting payment of the first quarterly installment back to the Agency. These installments shall be due October 1, January 1, and April

- 1, following initial payment. Quarterly installments shall be equal to twenty-five percent (25%) of the total fee.
- (k) Late Payment. Any Title V source which does not pay the Annual Fee or installment within thirty (30) days of the due date shall be assessed a late penalty equal to twenty-five percent (25%) of the fee amount due. Any penalty shall be in addition to the fee amount due.
  - (l) Appeal of Annual Fees. Annual Fees may be appealed according to the procedure specified in Rule 1.8. The basis for such appeals shall be limited to arithmetic or clerical errors.
  - (m) Exemption from Rule 3.1 fees. Title V sources assess annual fees under Rule 3.2 shall not be subject to annual Registration Program Fees under Rule 3.1 of Regulation 3.
  - (n) Transfer of Ownership. Transfer of ownership of a Title V source shall not affect any obligation to pay fees required by Rule 3.2. Any liability for fee payment, including payment of delinquent fees and other penalties shall survive any transfer of ownership of a Title V source.
  - (o) Accountability. The sum of the fees assessed by the Agency to all Title V sources within the Agency's jurisdiction shall not exceed the cost of developing and administering the program. The Agency shall keep record of all direct and indirect costs to develop and administer the Operating Permit Program as specified in 40 CFR Part 70. This information shall be used by the Agency in determining the net annual cost projections required by Rule 3.2(f) above. Provided, however, the information obtained from tracking revenues, time, and expenditures shall not provide a basis for challenge to the amount of an individual source's fee.

### **RULE 3.3 NOTICE OF CONSTRUCTION FEES**

- (a) Fees for processing a Notice of Construction (NOC) application shall include Filing Fees according to Rule 3.3(b) and any applicable Additional NOC Processing Fees according to Rule 3.3(c). Other cost to the agency of work performed outside of the agency in conjunction with approving an NOC application shall be directly reimbursed to the agency according to Rule 3.3(d).
- (b) Filing Fees. A Filing Fee according to Table 3.3a shall be paid for each proposed piece of equipment or process, or for groups of identical equipment or processes that, if considered individually would be subject to an NOC. Filing Fees shall be assessed and paid as follows:
  - (1) An NOC application may not be deemed complete unless Filing Fees have been paid in full.
  - (2) Equipment or processes may be considered identical and subject to a single filing fee provided:
    - (i) They are identical in size and capacity;
    - (ii) Employ identical air pollution control technology;
    - (iii) Use the same fuel types;
    - (iv) Are subject to the same performance standards and air regulatory determinations; and,

- (v) May be considered as a single emissions point for the purpose of determining ambient air quality impacts.
- (3) Payment of NOC Filing Fees shall be due no later than thirty (30) days from the date of the invoice unless an alternative payment plan has been approved by the Executive Director.
- (c) **Additional NOC Processing Fees.** Additional NOC Processing Fees shall be paid at a rate of \$80 per hour of direct time expended by agency technical staff in completing any of the fee-eligible items or actions described in Table 3.3b. If required, additional NOC Processing Fees shall be determined and paid as follows:
  - (1) Additional NOC Fees may be assessed periodically as work to complete the fee-eligible items in Table 3.3b incurs, but not more frequently than monthly.
  - (2) All Additional NOC Processing Fees shall be assessed and paid prior to issuing any Final Determination on an NOC application unless an alternative payment plan has been approved by the Executive Director.
  - (3) Payment of any Additional NOC Processing Fee shall be due no later than thirty (30) days from the date of the invoice unless an alternative payment plan has been approved by the Executive Director.
  - (4) The Director may approve an alternative payment plan provided that the plan is submitted in writing by the applicant.
  - (5) In computing fees based on hourly rates, only hours of technical staff (Engineer and Air Quality Specialist classifications) attributed directly to completing fee-eligible tasks listed in Table 3.3b shall be used in computing fees.
  - (6) The total hours used in computing fees shall be based on the agency's official time accounting records.
  - (7) Invoices shall disclose the number of hours by employee classification that is the basis for any Additional NOC Processing Fee.
- (d) **Other Costs.** The following other costs shall be borne by the applicant:
  - (1) The cost of publishing any required notice
  - (2) Consulting cost incurred by the agency in conjunction with approving an NOC application.
- (e) **Late Payment Penalties.** Failure to pay, in full, any assessed NOC fee by the due date as stated on the invoice, shall incur a late payment penalty in the amount of 25% of the total amount due.

**Table 3.3a: Filing Fees**

<b>Fuel Burning Equipment</b>		
<b>Design heat input rate in MMBtu/hr (maximum)</b>	<b>Filing Fee</b>	<b>Base-Fee Hours</b>
Less than 10	\$520	7
10 or more but less than 20	\$700	9
20 or more but less than 50	\$940	12
50 or more but less than 100	\$1,900	24
100 or more	\$3,100	39
<b>Fuel change or new fuel</b>		
<b>Design heat input rate in MMBtu/hr (maximum)</b>	<b>Filing Fee</b>	<b>Base-Fee Hours</b>
Less than 10	\$310	4
10 or more but less than 20	\$400	5
20 or more but less than 50	\$520	7
50 or more but less than 100	\$1,000	13
100 or more	\$1,600	20
<b>Process and Control Equipment</b>		
<b>Cubic feet per minute at design capacity</b>	<b>Filing Fee</b>	<b>Base-Fee Hours</b>
Less than 10,000	\$460	6
10,000 or more but less than 20,000	\$580	7
20,000 or more but less than 50,000	\$760	10
50,000 or more but less than 100,000	\$1,120	14
100,000 or more but less than 250,000	\$2,140	27
250,000 or more	\$3,100	39
<b>Incinerators</b>		
<b>Pounds per day at maximum design capacity</b>	<b>Filing Fee</b>	<b>Base-Fee Hours</b>
Less than 100	\$460	6
100 or more but less than 500	\$760	10
500 or more but less than 1,000	\$2,080	26
<b>Refuse Combustion</b>		
<b>Combustion rate in tons per day at design capacity</b>	<b>Filing Fee</b>	<b>Base-Fee Hours</b>
Less than 12	\$3,100	39
12 or more	\$8,500	106
<b>Storage Tanks, Reservoirs and Containers (other than at retail gasoline dispensing facilities)</b>		
<b>Gallons total capacity</b>	<b>Filing Fee</b>	<b>Base-Fee Hours</b>
6,000 or more but less than 40,000	\$520	7
40,000 or more but less than 100,000	\$1,060	13
100,000 or more but less than 500,000	\$1,600	20
500,000 or more	\$1,780	22
<b>Miscellaneous Air Pollution Sources</b>		
<b>Filing fee based on # of units</b>	<b>Filing Fee</b>	<b>Base-Fee Hours</b>
Spray Painting Operation (per booth)	\$460	6
Dry Cleaner (per machine)	\$340	4
New Gasoline Station	\$460	6
Gasoline Station Upgrade or Modification	\$200	3
Asphalt Plant (initial)	\$1,300	16
Soil Thermal Desorbtion Unit (initial)	\$3,100	39
Odor Source	\$700	9
Soil and Groundwater remediation	\$700	9
Autobody	\$460	6
Control Device Replacement or Substantial Alteration	\$200	3
Composter	\$200	3
Rock Crusher (initial )	\$200	3
Other	\$340	4

**Table 3.3b: Additional NOC Processing Fees**

Fee-Eligible Item	Description
NOC Application Assistance	Direct technical assistance completing a NOC application, including, but not limited to calculating emissions, filling out standard forms, determining applicable requirements, completing a BACT analysis, performing an air toxics screening analysis pursuant to chapter 173-460 WAC, or selecting monitoring equipment. An NOC Application Assistance fee may only be assessed if the fee rate is disclosed to the applicant and applicant requests such assistance in writing.
Work Exceeding Base-Fee Hours	Direct work attributed to processing a NOC application in excess of the sum of applicable base-fee hours stated in Table 3.3a for each piece of equipment or process subject to a NOC.
State Environmental Policy Act (SEPA)	SEPA-related work such as reviewing Environmental Checklists, making threshold determinations, preparing Determinations of Nonsignificance (DNS) and other SEPA-related reports.
Public Noticing	Work directly associated with issuing public notice pursuant to WAC 173-400-171 and Rule 6.1(e) of ORCAA's Regulations. Associated work includes issuing a press release if warranted, copying and posting the written Preliminary Determination for public viewing, and reviewing and responding to comments.
Public Hearing	Work associated with conducting a public hearing including, but not limited to, preparation of summary materials, copying, issuing hearing notice, conducting the hearing, and responding to comments

**Table 3.3c: NOI Application Processing Fees**

SOURCE CATEGORY	FEE AMOUNT
Asphalt Plant – Temporary Portable	\$500.00
Soil Thermal Desorbition Unit – Temporary Portable	\$1,000.00
Rock Crusher – Temporary Portable	\$100.00
Nonroad Engine	\$500.00
Stationary source qualifying under Rule 6.1(c)(2)	\$200.00
Other	\$100.00

**RULE 3.4 OUTDOOR BURNING PERMIT FEES**

Agricultural Burn permit: For 10 acres (or equivalent) or less the fee is twenty-five dollars (\$25.00). For greater than 10 acres (or equivalent) the fee will be two dollars and fifty cents (\$2.50) per acre.

Land Clearing Burn Permit: Land clearing burning permits issued by ORCAA will be charged \$100.00 for one acre or less. For greater than one acre the fee will be \$100.00 per acre cleared, rounded to the nearest full acre.

**RULE 3.5 ASBESTOS FEES**

Any permit required by Rule 6.3.2(a) shall be considered incomplete until all the information required by Rule 6.3.2(a) is received by the Control Officer, or designee, and accompanied by the appropriate, nonrefundable fee. The appropriate fee shall be determined by Table 3.5a.

**Table 3.5a Asbestos and Demolition Fees**

<b>Category</b>	<b>Type of Project</b>	<b>Application Fee</b>
<b>DEMOLITION PROJECTS</b>		
Demolition	Residential	\$35.00
Demolition	Commercial	\$60.00
Emergency Demolition	All projects that normally require a 10 working day notification period	\$50.00 plus normal notification fee
<b>Category</b>	<b>Amount of material</b>	<b>Application Fee</b>
<b>ASBESTOS PROJECTS</b>		
Asbestos removed by owner of owner occupied residence	All	\$30.00
1 - Asbestos Project	10-259 linear ft 11-159 square ft	\$150.00
2 - Asbestos Project	260-999 linear ft 160-4,999 square ft	\$325.00
3 -Asbestos Project	1,000-9,999 linear ft 5,000-49,999 square ft	\$650.00
4 -Asbestos Project	10,000+ linear ft 50,000+ square ft	\$1300.00
Annual Asbestos Project	Yearly limit of 260 linear ft on pipes 160 square ft other components	\$500.00
Amendments	All projects	1 <sup>st</sup> and 2 <sup>nd</sup> amendment at no charge \$25.00 charge for 3 <sup>rd</sup> and subsequent amendments
Emergency	All projects that normally require a 10 working day notification period	\$50.00 plus normal notification fee

## REGULATION 4 – REGISTRATION

### RULE 4.1 REGISTRATION REQUIRED

- (a) All stationary sources within the jurisdiction of the Agency, except for any stationary sources required to obtain an air operating permit under chapter 173-401 WAC, shall be registered with the Agency. Notwithstanding the exemptions provided in Rule 4.1(b), the following stationary sources shall be registered with the Agency:
- (1) Any stationary source subject to a standard under New Source Performance Standards, 40 CFR Part 60, except; New Residential Wood Heaters (Subpart AAA); Kraft Pulp Mills (Subpart BB); and Primary Aluminum Reduction Plants (Subpart S);
  - (2) Any stationary source subject to a performance standard under National Emission Standards for Hazardous Air Pollutants, 40 CFR 61.02, except for asbestos demolition and renovation projects subject to 40 CFR 61.145;
  - (3) Any stationary source subject to a performance standard under National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR 63.2;
  - (4) Any stationary source that includes equipment or control equipment subject to an Approval Order issued by the Agency.
- (b) The following stationary sources are exempt from registration requirements under Regulation 4. All stationary sources exempt from registration under Regulation 4 are still required to comply with other applicable air pollution requirements.

#### Maintenance/construction:

- (1) Cleaning and sweeping of streets and paved surfaces;
- (2) Concrete application, and installation;
- (3) Dredging wet spoils handling and placement;
- (4) Paving application and maintenance, excluding asphalt plants;
- (5) Plant maintenance and upkeep activities (grounds keeping, general repairs, routine housekeeping, routine plant painting, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.);
- (6) Plumbing installation and plumbing protective coating application associated with plant maintenance activities;
- (7) Roofing application;
- (8) Insulation application and maintenance, excluding products for resale;
- (9) Janitorial services and consumer use of janitorial products;
- (10) Asphalt laying equipment including asphalt-roofing operations (not including manufacturing or storage);
- (11) Blast cleaning equipment that uses a suspension of abrasives in liquid water;
- (12) Spray painting or blasting equipment used at temporary locations to clean or paint bridges, water towers, buildings, or similar structures.

#### Storage tanks:

- (13) Lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils;
- (14) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation;
- (15) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions;
- (16) Process and white water storage tanks;
- (17) Storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity (35 cft);
- (18) Storage tanks of a capacity of 10,000 gallons or less, with lids or other appropriate closure, used for the storage of materials containing organic compounds, but not for use with materials containing toxic air pollutants (as defined in chapter 173-460 WAC);
- (19) Storage tanks of a capacity of 40,000 gallons or less, with lids or other appropriate closure, used for storage of organic compounds, but not for use with materials containing toxic air pollutants (as defined in chapter 173-460 WAC), with a true vapor pressure less than 0.01 kPa (0.002 psia) (0.0001 atm);
- (20) Storage tanks of a capacity of 40,000 gallons or less used for the storage of butane, propane, or liquefied petroleum gas;
- (21) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids;
- (22) Storage tanks used exclusively for storage of diesel fuel;
- (23) Loading and unloading equipment used exclusively for the storage tanks exempted under this rule.

Combustion:

- (24) Fuel burning equipment (not including incinerators) that:
  - (i) is used solely for a private dwelling serving five families or less; or
  - (ii) has a maximum heat input rate of 5 MMBtu/hr or less if burning natural gas, propane, or LPG; or
  - (iii) has a maximum heat input rate of 0.5 MMBtu/hr or less if burning waste-derived fuels; or
  - (iv) has a maximum heat input rate of 1 MMBtu/hr or less if burning recycled or used oil per the requirements of RCW 70.94.610; or
  - (v) has a maximum heat input rate of 1 MMBtu/hr or less if burning any other type of fuel and with less than or equal to 0.05% sulfur by weight.
- (25) All stationary gas turbines with a rated heat input <10 million Btu per hour.
- (26) Stationary internal combustion engines having rated capacity:
  - (i) <50 horsepower output; or
  - (ii) <500 horsepower and used only for standby emergency power generation.



- (27) All nonroad engines subject to 40 CFR Part 89.

Material handling:

- (28) Storage and handling of water based lubricants for metal working where organic content of the lubricant is <10%;
- (29) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallon, material with initial atmospheric boiling point not less than 150°C or vapor pressure not more than 5 mm Hg @21°C, with lids or other appropriate closure.

Water treatment:

- (30) Septic sewer systems, not including active wastewater treatment facilities;
- (31) NPDES permitted ponds and lagoons used solely for the purpose of settling suspended solids and skimming of oil and grease;
- (32) De-aeration (oxygen scavenging) of water where toxic air pollutants as defined in chapter 173-460 WAC are not emitted;
- (33) Process water filtration system and demineralizer vents;
- (34) Sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems;
- (35) Demineralizer tanks;
- (36) Alum tanks;
- (37) Clean water condensate tanks;
- (38) Oil/water separators, except those at petroleum refineries;
- (39) Equipment used exclusively to generate ozone and associated ozone destruction equipment for the treatment of cooling tower water or for water treatment processes;
- (40) Municipal sewer systems, including wastewater treatment plants and lagoons with a design capacity of one million gallons per day or less, provided that they do not use anaerobic digesters, chlorine disinfections or sewer sludge incinerators.

Environmental chambers and laboratory equipment:

- (41) Environmental chambers and humidity chambers not using toxic air pollutant gases, as regulated under chapter 173-460 WAC;
- (42) Gas cabinets using only gases that are not toxic air pollutants regulated under chapter 173-460 WAC;
- (43) Laboratory fume hoods;
- (44) Laboratory calibration and maintenance equipment.

Monitoring/quality assurance/testing:

- (45) Equipment and instrumentation used for quality control/assurance or inspection purpose;
- (46) Hydraulic and hydrostatic testing equipment;
- (47) Sample gathering, preparation and management;
- (48) Vents from continuous emission monitors and other analyzers.

Miscellaneous:

- (49) Single-family residences and duplexes;
- (50) Plastic pipe welding;

- (51) Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting;
- (52) Insecticide, pesticide, or fertilizer spray equipment;
- (53) Comfort air conditioning;
- (54) Flares used to indicate danger to the public;
- (55) Natural and forced air vents and stacks for bathroom/toilet activities;
- (56) Personal care activities including establishments like beauty salons, beauty schools, and hair cutting establishments;
- (57) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires;
- (58) Tobacco smoking rooms and areas;
- (59) Noncommercial smokehouses;
- (60) Blacksmith forges for single forges;
- (61) Vehicle maintenance activities, not including vehicle surface coating;
- (62) Vehicle or equipment washing;
- (63) Wax application;
- (64) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment;
- (65) Ozone generators and ozonation equipment;
- (66) Ultraviolet curing processes, to the extent that toxic air pollutant gases as defined in chapter 173-460 WAC are not emitted;
- (67) Electrical circuit breakers, transformers, or switching equipment installation or operation;
- (68) Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives;
- (69) Fire fighting and similar safety equipment and equipment used to train fire fighters;
- (70) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight;
- (71) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities;
- (72) Solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm HG @21°C, and not containing toxic air pollutants (as defined in chapter 173-460 WAC);
- (73) Surface coating, aqueous solution or suspension containing <1% (by weight) VOCs, and/or toxic air pollutants as defined in chapter 173-460 WAC;
- (74) Cleaning and stripping activities and equipment using solutions having <1% VOCs (by weight); on metallic substances, acid solutions are not exempt;
- (75) Dip coating operations, using materials less than 1% VOCs (by weight) and/or toxic air pollutants as defined in chapter 173-460 WAC;
- (76) Laundry dryers, extractors or tumblers used exclusively for the removal of water from fabric;
- (77) Residential composting facilities;
- (78) Restaurants and other retail food preparing establishments;
- (79) Routing, turning, carving, cutting and drilling equipment used for metal, wood, plastics, rubber, leather or ceramics;

- (80) Steam cleaning equipment used exclusively for office or residential housekeeping;
- (81) Vacuum cleaning systems used exclusively for office or residential housekeeping;
- (82) Vacuum producing devices used in laboratory operations and vacuum producing devices that do not remove or convey air contaminants from or to another source;
- (83) Vents used exclusively for:
  - (i) Sanitary or storm drainage systems; or
  - (ii) Safety valves.
- (84) Washing or drying equipment used for products fabricated from metal or glass, if no volatile organic material is used in the process;
- (85) Welding, brazing or soldering equipment;
- (86) Coffee roaster with a design capacity less than 10 pounds per batch;
- (87) Bark and soil screening operations;
- (88) Portable sand and gravel plants and crushed stone plants with a cumulative rated capacity of all crushers less than or equal to 150 tons per hour;
- (89) Fixed sand and gravel plants and crushed stone plants with a cumulative rated capacity of all crushers less than or equal to 25 tons per hour;
- (90) Any portable stationary source approved by the Agency for operation at temporary locations.

#### **RULE 4.2 REGISTRATION PROGRAM**

- (a) Program purpose. As authorized by RCW 70.94.151, the Agency's registration program is a program to develop and maintain a current and accurate record of stationary sources. Information collected through the registration program is used to evaluate the effectiveness of air pollution control strategies and to verify stationary source compliance with applicable air pollution requirements.
- (b) Program components. The components of the Agency's registration program shall include:
  - (1) Initial notification and annual or other periodic reports from owners of stationary sources providing the information described in Rule 4.3.
  - (2) On-site inspections necessary to verify compliance with applicable air pollution control requirements and/or to supplement information provided by owners of stationary sources pursuant to the requirements of Rule 4.3.
  - (3) Maintenance of computers and software used to compile and retrieve information provided by owners of stationary sources relating to air contaminant emissions and compliance with air pollution control requirements.
  - (4) Compilation of emission inventory reports and computation of emission reduction credits from information provided by owners of stationary sources pursuant to the requirements of Rule 4.3.

- (5) Staff review, including engineering analysis for accuracy and correctness, of information provided by owners of stationary sources pursuant to the requirements of Rule 4.3.
- (6) Clerical and other office support provided by the Agency in direct support of the registration program.
- (7) Administrative support provided in directly carrying out the registration program.
- (8) Assessment and collection of annual registration fees from all stationary sources requiring registration in accordance with Rule 3.1.

**RULE 4.3 REQUIREMENTS FOR STATIONARY SOURCES SUBJECT TO REGISTRATION**

- (a) The owner or operator of any stationary source subject to registration under Rule 4.1 shall register the stationary source by submitting an initial notification to the Agency of its existence within 30 days from:
  - (1) Commencement of operation of any new or recommissioned stationary source including those subject to prior approval by the Agency through a Notice of Construction under Rule 6.1; or,
  - (2) Change in ownership of an existing registered stationary source.
- (b) Initial notification shall include the following information:
  - (1) Owner name, address and phone number;
  - (2) Source location;
  - (3) Name, address and phone number of on-site contact person;
  - (4) Identification and brief description in terms of type, location and size or capacity, of each stationary source subject to registration;
  - (5) Date each stationary source was constructed, installed or established;
  - (6) Date each stationary source commenced operation;
  - (7) If subject to pre-construction review and approval by the Agency, the date of the approval and Notice of Construction application number.
- (c) Owners or operators of any stationary source subject to registration shall, upon request by the Agency, make annual and/or periodic reports to the Agency regarding emission sources, types and amounts of raw materials and fuels used, types, amounts and concentrations of air contaminants emitted, data on emissions units and control devices, data on emission points, and any other information directly related to the registration program as requested by the Agency.
- (d) Annual and periodic reports as required by the Agency pursuant to Rule 4.3(c) shall be made by the owner or lessee of the stationary source, or an agent, on forms provided by the Agency or in an Agency approved format. The owner of the stationary source shall be responsible for completion and submittal of the annual or periodic report within thirty (30) days of receipt of the request and forms provided by the Agency. The owner of the stationary source shall be responsible for the completeness and correctness of the information submitted.
- (e) The owner or operator shall notify the Agency of any changes in the following administrative information within 30 days from the change taking place:

- (1) Owner name, address and phone number;
  - (2) Name, address and phone number of on-site contact person;
  - (3) Process or equipment changes resulting in an increase in emissions, provided that changes requiring prior approval by the Agency through a Notice of Construction (NOC) application shall also comply with the requirements of Rule 6.1; and,
  - (4) Any permanent shut down or decommissioning of a stationary source.
- (f) Each notification or report required under this rule shall be signed by the owner or operator of the stationary source, or by the agent appointed by the owner.
- (g) According to the schedule set forth below, owners or operators of stationary sources subject to registration pursuant to Rule 4.1 above shall develop, implement and update when necessary an Operations and Maintenance plan to assure continuous compliance with applicable air regulations and standards including ORCAA's Regulations. Operation and Maintenance plans shall include, but not be limited to, the measures listed in Rule 4.3(g)(2). A copy of the Operations and Maintenance plan shall be retained at the facility where the stationary source is located and shall be made available to all operators of the stationary source and the Agency upon request.
- (1) Operation and Maintenance plans required by this rule shall be written, and shall be completed or updated, and fully implemented by the following due dates:
    - (i) No later than 120 days from initial registration with the Agency for existing stationary sources not yet registered with the Agency.
    - (ii) No later than 90 days from commencement of operation for newly constructed or established stationary sources requiring registration.
  - (2) Operation and Maintenance plans required pursuant to Rule 4.3(g) shall include, but not be limited to, the following types of measures:
    - (i) Periodic inspection of emission units and associated control devices to evaluate air contaminant control effectiveness and compliance with applicable emissions limits;
    - (ii) Measures for monitoring and recording of all emissions unit and control device performance when required by regulation or an approval order;
    - (iii) Procedures for facilitating prompt repair of any defective equipment or control device associated with air contaminant emissions;
    - (iv) A system for logging all actions required by the plan;
    - (v) Standard procedures for responding to air quality related complaints received by the facility where the stationary source is located; and,
    - (vi) General policy and measures for minimizing dust emissions and odors.

- (h) Owners or operators of stationary sources subject to registration shall be classified according to Rule 4.4 and shall pay annual registration fees pursuant to Rule 3.1.

**RULE 4.4 CLASSIFICATION OF SOURCES REQUIRED TO REGISTER WITH AGENCY**

All sources requiring registration pursuant to Rule 4.1 shall be classified in one of the registration classes listed in Table 4.4b. A source will be placed in the most appropriate class as determined by the Agency. For purposes of classification, the pollutants listed in Table 4.4a will be considered.

**Table 4.4a: Pollutants**

Total Suspended Particulates (TSP)
Sulfur Oxides (SOx)
Nitrogen Oxides (NOx)
Volatile Organic Compounds (VOC)
Carbon Monoxide (CO)
Toxic Air Pollutants (TAP)

**Table 4.4b: Registration Classes (RC)**

CLASS RC1 - Any source that has an effective Synthetic Minor Order issued pursuant to WAC 173-400-091.
CLASS RC2 - Any source with a potential to emit 30 tons or more per year of any combination of pollutants listed in Table 4.4a.
CLASS RC3 - Any source with a potential to emit 10 tons or more per year of any combination of pollutants listed in Table 4.4a.
CLASS RC4 - Any source, with a potential to emit 5 tons or more per year of any combination of pollutants listed in Table 4.4a.
CLASS RC5 - Any source with a potential to emit less than 5 tons per year of any combination of pollutants listed in Table 4.4a.

**RULE 4.5 REGISTRATION OF PORTABLE EQUIPMENT (TEMPORARY PORTABLE SOURCES)**

- (a) Notice of Intent to Operate. The owner or operator of the following sources shall notify the Agency of the intent to relocate and operate within the jurisdiction of the Agency at least 15 days prior to starting operation by submitting a complete Notice of Intent to Operate (NOI) in accordance with rule 6.1.1:
  - (1) Relocation of temporary portable stationary sources that have a valid Order of Approval from Ecology or an air pollution control authority in the State of Washington; and,

- (2) Nonroad engines, provided that the regulation of nonroad engines under this rule are subject to the limitations as set forth in 40 CFR Appendix A to Subpart A of 89 – State Regulation of Nonroad Internal Combustion Engines.
- (b) Requirements for Operation. Sources subject to rule 4.5(a) shall meet the operating requirements established under Rule 6.1.7.





# REGULATION 5 – OPERATING PERMIT PROGRAM

## RULE 5.1 OPERATING PERMIT PROGRAM

- (a) Purpose. The purpose of this rule is to provide for a comprehensive operating permit program consistent with the requirements of Title V of the Federal Clean Air Act Amendments of 1990 and its implementing regulation 40 CFR Part 70, and RCW 70.94.161 and its implementing regulation chapter 173-401 WAC.
- (b) Commitment to administer the program. Olympic Region Clean Air Agency (Agency), provided full or partial delegation by the US Environmental Protection Agency (EPA) and the Washington Department of Ecology (DOE), shall administer an air operating permit program for the Agency’s jurisdiction in accordance with Title V of the Federal Clean Air Act Amendments of 1990 and its implementing regulation 40 CFR Part 70, and RCW 70.94.161 and its implementing regulation chapter 173-401 WAC.
- (c) Applicability. The provisions of this rule apply to all sources subject to the requirements of chapter 173-401 WAC.
- (d) Compliance. It shall be unlawful for any person to cause or allow the operation of any source subject to the requirements of chapter 173-401 WAC without complying with the provisions of chapter 173-401 WAC and any permit issued under its authority.

## RULE 5.2 CLASSIFICATION OF SOURCES

- (a) All air contaminant sources required an operating permit pursuant to Title V of the Federal Clean Air Act (FCAA), RCW 70-94-161, or ORCAA’s Regulations shall be classified in one of the operating permit program source classification categories (OP#) listed in Table 5.2a. A source will be placed in the most appropriate classification category as determined by the Agency.
- (b) For purposes of source classification, the pollutants listed in Table 5.2b will be considered. Air contaminant emissions from a source shall be categorized in the most appropriate pollutant category as determined by the Agency.
- (c) Air contaminant emissions counted as toxic air pollutants shall not be double-counted under any other air pollutant for purposes of classification.

**Table 5.2a: Operating Permit Program Source Classification**

CLASS OP1 - Any source with a potential to emit 100 tons per year or more of any pollutant listed in Table 5.2b.

CLASS OP2 - Any source, except those sources classifiable under OP1, with a potential to emit 10 tons or more per year of any toxic air pollutants or 25 tons or more per year of any combination of toxic air pollutants.

CLASS OP3 - Any air contaminant source requiring a general operating permit pursuant to Title V, section 504(d) of the Federal Clean Air Act (FCAA).

CLASS OP4 - Any other source, except those sources classifiable under OP1, OP2, or OP3 requiring an Operating Permit pursuant to Title V of the Federal Clean Air Act (FCAA), RCW 70.94.161, or ORCAA’s Regulations.

**Table 5.2b: Regulated Pollutants**

Total Particulates (TSP)
Sulfur Oxides (SO <sub>x</sub> )
Nitrogen Oxides (NO <sub>x</sub> )
Volatile Organic Compounds (VOC)
Carbon Monoxide (CO)
Toxic Air Pollutants

**RULE 5.3 RESTRICTING THE POTENTIAL TO EMIT**

A service based fee, additional to annual registration or operating permit fees, shall be assessed to those sources applying to the Agency for approval of enforceable conditions that restrict the sources' potential to emit, making the source a minor source and not subject to an operating permit. Fees for restricting a sources' potential to emit shall be assessed according to Regulation 3, Rule 3.3. The Agency shall assess the fee based on only those emissions units affected by the enforceable condition as proposed by the applicant.

## REGULATION 6 – REQUIRED PERMITS

### RULE 6.1 NOTICE OF CONSTRUCTION REQUIRED

- (a) Approval of a Notice of Construction (NOC) Application required. It shall be unlawful for any person to cause or allow the following actions unless a “Notice of Construction (NOC)” application has been filed with and approved by the Agency, except for those actions involving stationary sources excluded under Rule 6.1(c) and (d):
  - (1) Construction, installation, or establishment of any stationary source; or
  - (2) Modification to any existing stationary source.
- (b) Projects not eligible for exemptions. Any exemption provided in Rule 6.1(c) or (d) shall not apply to:
  - (1) Any project that qualifies as construction, reconstruction, or modification of an affected facility, within the meaning of 40 CFR Part 60 (New Source Performance Standards), except for Part AAA, (New Residential Wood Heaters). Ecology is responsible for issuing notices of construction to projects subject to Subpart BB (Kraft Pulp Mills) and Subpart S (Primary Aluminum Reduction Plants).
  - (2) Any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (National Emission Standards for Hazardous Air Pollutants), except for asbestos demolition and renovation projects subject to 40 CFR 61.145.
  - (3) Any project that qualifies as a new source within the meaning of 40 CFR 63.2 (National Emission Standards for Hazardous Air Pollutants for Source Categories).
  - (4) Any project that qualifies as a new major stationary source, or a major modification.
  - (5) Any modification to a stationary source that requires an increase either in a plant-wide cap or in unit specific emissions limit.
- (c) Exemption provided Notice of Intent to Operate. A NOC application and prior approval by the Agency is not required prior to construction, installation, establishment or modification of the following types of stationary sources, provided that a complete “Notice of Intent to Operate” has been filed with the Agency in accordance with Rule 6.1.1:
  - (1) Temporary Portable Stationary Sources. Temporary portable stationary sources that have been previously approved by Ecology or a local air pollution control authority in the State of Washington through a NOC application.
  - (2) Stationary Sources based on Potential to Emit. Any stationary source that:
    - (i) Will not result in emission of any toxic air pollutants listed in WAC 173-460-150 (Class A Toxic Air Pollutants); and,

(ii) Will have a combined potential to emit from all emission units less than:

- (A) 0.5 tons per year of any criteria pollutant; and,
- (B) 1.0 tons per year of total criteria pollutants and VOC combined; and,
- (C) 0.005 tons per year of lead; and,
- (D) 100 pounds per year of any toxic air pollutant listed in WAC 173-460-160 (Class B Toxic Air Pollutants); and,
- (E) 1.0 tons per year of ozone depleting substances combined.

(d) Categorical Exemptions. A NOC application and prior approval by the Agency is not required prior to construction, installation, establishment or modification of stationary sources in the following stationary source categories, provided that sufficient records are kept to document the exemption:

Maintenance/construction:

- (1) Cleaning and sweeping of streets and paved surfaces;
- (2) Concrete application, and installation;
- (3) Dredging wet spoils handling and placement;
- (4) Paving application and maintenance, excluding asphalt plants;
- (5) Plant maintenance and upkeep activities (grounds keeping, general repairs, routine housekeeping, routine plant painting, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.);
- (6) Plumbing installation and plumbing protective coating application associated with plant maintenance activities;
- (7) Roofing application;
- (8) Insulation application and maintenance, excluding products for resale;
- (9) Janitorial services and consumer use of janitorial products;
- (10) Asphalt laying equipment including asphalt-roofing operations (not including manufacturing or storage);
- (11) Blast cleaning equipment that uses a suspension of abrasive in liquid water;
- (12) Spray painting or blasting equipment used at temporary locations to clean or paint bridges, water towers, buildings, or similar structures.

Storage Tanks:

- (13) Lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils;
- (14) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation;
- (15) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions;
- (16) Process and white water storage tanks;
- (17) Storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity (35 cft);
- (18) Storage tanks of a capacity of 10,000 gallons or less, with lids or other appropriate closure, and for the storage of materials containing organic

compounds, but not for use with materials containing toxic air pollutants (as defined in chapter 173-460 WAC);

- (19) Storage tanks of a capacity of 40,000 gallons or less, with lids or other appropriate closure, used for the storage of organic compounds, but not for use with materials containing toxic air pollutants (as defined in chapter 173-460 WAC), with a true vapor pressure less than 0.01 kPa (0.002 psia) (0.0001 atm);
- (20) Storage tanks of a capacity of 40,000 gallons or less used for the storage of butane, propane, or liquefied petroleum gas;
- (21) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids.
- (22) Storage tanks used exclusively for storage of diesel fuel;
- (23) Loading and unloading equipment used exclusively for the storage tanks exempted under this rule.

Combustion:

- (24) Fuel burning equipment (not including incinerators) that:
  - (i) is used solely for a private dwelling serving five families or less; or
  - (ii) has a maximum heat input rate of 5 MMBtu/hr or less if burning natural gas, propane, or LPG; or
  - (iii) has a maximum heat input rate of 0.5 MMBtu/hr or less if burning waste-derived fuels; or
  - (iv) has a maximum heat input rate of 1 MMBtu/hr or less if burning recycled or used oil per the requirements of RCW 70.94.610; or
  - (v) has a maximum heat input rate of 1 MMBtu/hr or less if burning any other type of fuel and with less than or equal to 0.05% sulfur by weight.
- (25) All stationary gas turbines with a rated heat input <10 million Btu per hour.
- (26) Stationary internal combustion engines having rated capacity:
  - (i) <50 horsepower output; or
  - (ii) <500 horsepower and used only for standby emergency power generation.
- (27) All nonroad engines subject to 40 CFR Part 89.

Material handling:

- (28) Storage and handling of water based lubricants for metal working where organic content of the lubricant is <10%;
- (29) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallons, material with initial atmospheric boiling point not less than 150EC or vapor pressure not more than 5 mm Hg @ 21EC, with lids or other appropriate closure.

Water treatment:

- (30) Septic sewer systems, not including active wastewater treatment facilities;

- (31) NPDES permitted ponds and lagoons used solely for the purpose of settling and suspended solids and skimming of oil and grease;
- (32) De-aeration (oxygen scavenging) of water where toxic air pollutants as defined in chapter 173-460 WAC are not emitted;
- (33) Process water filtration system and demineralizer vents;
- (34) Sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems;
- (35) Demineralizer tanks;
- (36) Alum tanks;
- (37) Clean water condensate tanks;
- (38) Oil/water separators, except those at petroleum refineries;
- (39) Equipment used exclusively to generate ozone and associated ozone destruction equipment for the treatment of cooling tower water or for water treatment processes.
- (40) Municipal sewer systems, including wastewater treatment plants and lagoons with a design capacity of one million gallons per day or less, provided that they do not use anaerobic digesters, chlorine disinfections or sewage sludge incinerators.

Environmental chambers and laboratory equipment:

- (41) Environmental chambers and humidity chambers not using toxic air pollutant gases, as regulated under chapter 173-460 WAC;
- (42) Gas cabinets using only gases that are not toxic air pollutants regulated under chapter 173-460 WAC;
- (43) Installation or modification of a single laboratory fume hood;
- (44) Laboratory calibration and maintenance equipment.

Monitoring/quality assurance/testing:

- (45) Equipment and instrumentation used for quality control/assurance or inspection purposes;
- (46) Hydraulic and hydrostatic testing equipment;
- (47) Sample gathering, preparation and management;
- (48) Vents from continuous emission monitors and other analyzers.

Miscellaneous:

- (49) Single-family residences and duplexes;
- (50) Plastic pipe welding;
- (51) Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting;
- (52) Insecticide, pesticide, or fertilizer spray equipment;
- (53) Comfort air conditioning;
- (54) Flares used to indicate danger to the public;
- (55) Natural and forced air vents and stacks for bathroom/toilet activities;
- (56) Personal care activities including establishments like beauty salons, beauty schools, and hair cutting establishments;
- (57) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires;
- (58) Tobacco smoking rooms and areas;
- (59) Noncommercial smokehouses;

- (60) Blacksmith forges for single forges;
- (61) Vehicle maintenance activities, not including vehicle surface coating;
- (62) Vehicle or equipment washing;
- (63) Wax application;
- (64) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment;
- (65) Ozone generators and ozonation equipment;
- (66) Ultraviolet curing processes, to the extent that toxic air pollutant gases as defined in chapter 173-460 WAC are not emitted;
- (67) Electrical circuit breakers, transformers, or switching equipment installation or operation;
- (68) Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives;
- (69) Fire fighting and similar safety equipment and equipment used to train fire fighters;
- (70) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight;
- (71) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities;
- (72) Solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm HG @21EC, and not containing toxic air pollutants (as defined in chapter 173-460 WAC);
- (73) Surface coating, aqueous solution or suspension containing <1% (by weight) VOCs, and/or toxic air pollutants as defined in chapter 173-460 WAC;
- (74) Cleaning and stripping activities and equipment using solutions having <1% VOCs (by weight); on metallic substances, acid solutions are not exempt;
- (75) Dip coating operations, using materials less than 1% VOCs (by weight) and/or toxic air pollutants as defined in chapter 173-460 WAC.
- (76) Laundry dryers, extractors or tumblers used exclusively for the removal of water from fabric;
- (77) Residential composting facilities;
- (78) Restaurants and other retail food preparing establishments;
- (79) Routing, turning, carving, cutting and drilling equipment used for metal, wood, plastics, rubber, leather or ceramics;
- (80) Steam cleaning equipment used exclusively for that purpose;
- (81) Vacuum cleaning systems used exclusively for office or residential housekeeping;
- (82) Vacuum producing devices used in laboratory operations and vacuum producing devices that do not remove or convey air contaminants from or to another source;
- (83) Vents used exclusively for:
  - (i) Sanitary or storm drainage systems; or
  - (ii) Safety valves
- (84) Washing or drying equipment used for products fabricated from metal or glass, if no volatile organic material is used in the process.

- (85) Welding, brazing or soldering equipment;
- (86) Coffee roasters with a design capacity less than 10 pounds per batch;
- (87) Bark and soil screening operations;
- (88) Portable sand and gravel plants and crushed stone plants with a cumulative rated capacity of all initial crushers less than or equal to 150 tons per hour;
- (89) Fixed sand and gravel plants and crushed stone plants with a cumulative rated capacity of all initial crushers less than or equal to 25 tons per hour.

**Rule 6.1.1 Notice of Intent to Operate**

- (a) For those sources required to submit a notice of intent to operate, a complete Notice of Intent to Operate (NOI) application shall be filed at least 15 days prior to starting operation of the source.
- (b) NOI applications shall be made on standard forms of the Agency and shall include:
  - (1) All information requested in the applicable standard forms;
  - (2) If submitting a NOI for a stationary source qualifying for the exemption based on potential to emit under Rule 6.1(c)(2), documentation verifying the stationary source's potential to emit;
  - (3) Any additional information requested by the Agency to verify that operation of the stationary source will be in compliance with applicable air pollution control requirements; and,
  - (4) Applicable fee according to Table 3.3c.
- (c) Condition of operation. The Agency may establish enforceable conditions of operation, through issuance of a regulatory Order, as are reasonably necessary to assure compliance with applicable air pollution control requirements.
- (d) Temporary portable sources. Temporary portable sources shall also meet the requirements of Rule 6.1.7.

**Rule 6.1.2 Application Processing**

- (a) Application certification. All NOC applications shall be signed by the applicant or owner, who may be required to submit evidence of their authority.
- (b) Completeness determination. Within thirty (30) days after receiving a NOC application, the Agency shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Complete applications shall include:
  - (1) Any standard NOC form of the Agency that is applicable to the proposed stationary source or modification;
  - (2) An Environmental Checklist consistent with requirements in WAC 197-11-315 of the State Environmental Policy Act (SEPA), for any one of the following:



- (i) A Determination of Non-significance (DNS) in accordance with WAC 197-11-340;
  - (ii) A Mitigated Determination of Non-significance (MDNS) in accordance with WAC 197-11-350; or,
  - (iii) Written statement by the applicant claiming that the proposed stationary source or modification is categorically exempt from SEPA.
- (3) When applicable, all information required for review under WAC 173-400-117 and WAC 173-400-141;
  - (4) NOC processing fees in accordance with Rule 3.3(b) and (c); and,
  - (5) Any additional information requested by the Agency that is necessary to make the determinations required under Rule 6.1.4.
- (c) Timeframe for Public Involvement:
- (1) For NOC applications subject to a mandatory public comment period pursuant to Rule 6.1.3(b), the Agency shall issue a Preliminary Determination within 60 days from receipt of a complete application followed by a public comment period in accordance with Rule 6.1.3(c).
  - (2) For all other NOC applications, the Agency will post a public comment period in accordance with Rule 6.1.3(a) within 30 days from receipt of an application.
- (d) Final determination schedule. Final Determination on an application subject to a mandatory public comment period in accordance with Rule 6.1.3(b) shall be made as promptly as possible after close of the public comment period. Final Determination on all other applications shall be made within sixty (60) days of receipt of a complete NOC application.
- (e) Approval. A final determination to approve a NOC application and an “Order of Approval,” setting forth the conditions of approval, shall be issued, and served as provided for in these Regulations, provided the following conditions are met:
- (1) A complete application in accordance with Rule 6.1.2(b) was received by the Agency;
  - (2) The application verifies to the Agency that the applicable new source review requirements in Rule 6.1.4 have been met;
  - (3) Application processing fees in accordance with Rule 3.3 have been paid;
  - (4) The application includes an environmental checklist and other documents that verify compliance with the State Environmental Policy Act;
  - (5) Applicable public involvement requirements in Rule 6.1.3 have been met; and,
  - (6) The NOC has been signed by the Executive Director of the Agency or an authorized representative.
- (f) Denial. If the Agency determines that a proposed project subject to approval of a NOC application does not meet the applicable approval requirements in Rule 6.1.4, then a final determination to deny approval and an Order to Deny

Construction shall be issued and served as provided for in these Regulations. Any Order to Deny Construction shall:

- (1) Be in writing;
  - (2) Set forth the objections in detail with reference to the specific law or rule or rules of these Regulations that will not be met by the proposed project; and,
  - (3) Shall be signed by the Executive Director of the Agency or an authorized representative.
- (g) Scope of review of modifications. New source review of a modification to an existing stationary source shall be limited to the emission unit proposed to be modified, and the air contaminants whose emissions would increase as a result of the action; provided, however, that review of a major modification must also comply with applicable major new source review requirements under Rule 6.1.4(a) and/or Rule 6.1.4(b), as applicable.
- (h) Integration with Title V permitting requirements. A person seeking approval to construct or modify a stationary source subject to chapter 173-401 WAC may elect to integrate review of the operating permit application or amendment required under RCW 70.94.161 and the NOC application required by this rule. A NOC application designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines in chapter 173-401 WAC. A PSD application under WAC 173-400-141, a NOC application for a major modification in a nonattainment area or a NOC application for a major stationary source in a nonattainment area must also comply with public involvement requirements of Rule 6.1.3 and WAC 173-400-171.
- (i) P.E. review and sign-off. Every final determination on a NOC application shall be reviewed and signed prior to issuance by a professional engineer, or staff under the direct supervision of a professional engineer, in the employ of the Agency.
- (j) Appeals.
- (1) Any order issued pursuant to this Rule may be appealed to the Pollution Control Hearings Board of the State of Washington, pursuant to Rule 1.8.
  - (2) Any order issued or the failure to issue such an order, shall not relieve any person from their obligation to comply with any emission control requirement or with any other provision of law.
- (k) Major NSR obligations of the Agency. If the new stationary source is a major stationary source, or the change is a major modification, the Agency shall:
- (1) Submit any control technology determination included in a final order of approval to the RACT/BACT/LAER clearinghouse maintained by EPA; and
  - (2) Send a copy of the final approval order to EPA.
- (l) Deviations from approved plans. After approval to construct, install, establish or modify a stationary source or air pollution control device is granted, deviations from the approved plans, drawings, data and specifications that may result in changes to air pollutant emission rates, control efficiencies or impacts are not permissible without prior approval through a NOC application.

### **Rule 6.1.3 Public Involvement**

The public shall be afforded an opportunity to express interest in any Notice of Construction (NOC) application prior to approval or denial by the Agency.

- (a) Public Notice.
  - (1) A public interest fact sheet shall be published on the Agency's internet homepage announcing the receipt of permit applications and other proposed actions that do not automatically require a public comment period pursuant to Rule 6.1.3(b). Fact sheets shall be published on the Agency's Internet homepage for a minimum of fifteen (15) days. In the event that publication of the Agency's Internet homepage is not possible, the fact sheet will be published in a newspaper of general circulation in the area of the proposed action. When published in a newspaper, fact sheets will be published for a minimum of one (1) day.
  - (2) The general public shall be afforded a minimum of fifteen (15) days from initial publishing of a fact sheet to express an interest in a particular permit application or proposed decision by responding to the Agency in writing via letter, fax, or email.
  - (3) Public interest fact sheets shall include:
    - (i) The name of the applicant;
    - (ii) Location of the proposed project;
    - (iii) A brief project description;
    - (iv) Agency contact information;
    - (v) Procedures for submitting comments and the date by which public comments are due;
    - (vi) A statement that a public comment period will be provided if requested by any person, government agency, group, or the applicant.
  - (4) Requests for a public comment period shall be submitted to the Agency in writing via letter, fax, or electronic mail. A public comment period shall be provided pursuant to Rule 6.1.3(c) for any permit application or proposed action that receives such a request. Any application or proposed action for which a public comment period is not requested may be processed without further public involvement.
  - (5) The Agency shall consider comments submitted in accordance with Rule 6.1.3(a)(2) provided they are received prior to close of the comment period specified in the public interest fact sheet.
- (b) Mandatory public comment period. A public comment period in accordance with Rule 6.1.3(c) shall be required prior to approval or denial of any NOC application if:
  - (1) The proposed project would cause a significant net increase in emissions of any air contaminant listed in the following table:

**Table 6.1a: Significant Emissions Increase**

AIR CONTAMINANT	POTENTIAL TONS/YEAR
Carbon Monoxide (Co)	100.0
Volatile Organic Compounds (VOC)	40.0
Sulfur Dioxide	40.0
Nitrogen Oxides (NO <sub>x</sub> )	40.0
Particulate Matter (PM)	25.0
Fine Particulate Matter (PM <sub>10</sub> )	15.0
Lead	0.6
Fluorides	3.0
Sulfuric Acid Mist	7.0
Hydrogen Sulfide (H <sub>2</sub> S)	10.0
Total Reduced Sulfur (including H <sub>2</sub> S)	10.0
Total Toxic Air Pollutants (total TAPs) (TAPs as listed in chapter 173-460 WAC)	25.0
Any single Toxic Air Pollutant (TAP)	10.0
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)	15.0
Municipal waste combustor acid gases (measured as SO <sub>2</sub> and hydrogen chloride)	40.0

- (2) The applicant requests a limit on the potential to emit;
- (3) The applicant requests to bank emission reduction credits;
- (4) The proposed project involves refuse burning equipment;
- (5) The Executive Director determines that there may be substantial public interest in the proposal;
- (6) The applicant requests a change in any condition of an approval order that results in an increase in emissions or a substantial change to any monitoring, record keeping or reporting requirement of an approval order;
- (7) The proposed action is to extend the deadline to begin construction of a major stationary source or major modification in a nonattainment area;
- (8) A modified or substituted air quality model, other than a guideline model in Appendix W of 40 CFR Part 51 (in effect on June 1, 2003) was used as part of review under Rule 6.1.4;
- (9) The action involves an order to determine RACT;
- (10) The action involves establishing a compliance schedule or variance;
- (11) The order is to demonstrate the credible height of a stack which exceeds the GEP formula height and sixty-five (65) meters, by means of a fluid model or a field study, or purposes of establishing an emission limitation;
- (12) The action includes an order to authorize a bubble; or,
- (13) A public comment period is requested by any person, interested governmental agency, group, or the applicant in accordance with requirements for under Rule 6.1.3(a).

- (c) Public Comment period. If required, a public comment period shall be initiated through publication of a legal notice in a local newspaper of daily circulation. The public comment period shall be initiated only after all information required by the Agency has been submitted and after a Preliminary Determination has been made. The cost of providing legal notice shall be borne by the applicant according to provisions in Rule 3.3. Public notice of any NOC application requiring a public comment period shall include the following:
- (1) Availability of the NOC application and any written Preliminary Determination of the Agency in at least one location near the proposed project site and on the Agency's Internet homepage, excluding any confidential information as provided in Rule 1.6. The Agency's written Preliminary Determination shall include the conclusions, determinations and pertinent supporting information from the Agency's analysis of the effect of the proposed project on air quality.
  - (2) Publication of a legal notice in a newspaper of general circulation in the area of the proposed project which provides:
    - (i) A brief description of the project;
    - (ii) Location of the project and location of documents made available for public inspection;
    - (iii) The deadline for submitting written comments;
    - (iv) A statement that any person, interested governmental agency, group, or the applicant may request a public hearing; and,
    - (v) A statement that a public hearing may be held if the Agency determines within a 30-day period that significant public interest exists; and,
    - (vi) The date of the close of the public comment period in the event of a public hearing; and,
    - (vii) For projects subject to Special protection requirements for federal Class I areas in WAC 173-400-117(5)(c), the legal notice shall either explain the permitting agency's decision or state that an explanation of the decision appears in the fact sheet for the proposed PSD permit.
  - (3) Notice to the US Environmental Protection Agency Region 10 Regional Administrator.
- (d) Extent of public comment period. Unless a public hearing is held, the public comment period shall be the 30-day period following the date the public notice is first published. If a public hearing is held, the public comment period shall extend through the hearing date and thereafter for such period, if an, as the notice of public hearing may specify.
- (e) Public hearings. The applicant, any interested governmental entity, any group, or any person may request a public hearing within the comment period specified in the public notice. Any such request shall indicate, in writing, the interest of the entity filing it and why a hearing is warranted. The Agency 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 and place as the Agency

deems reasonable. The Agency shall provide at least 30 days prior notice of any hearing.

- (f) Consideration of public comments. No final decision on any NOC application shall be made until all public comment periods have ended and any comments received in accordance with requirements for public comments under Rule 6.1.3 have been considered.
- (g) Other requirements of law. Whenever procedures permitted or mandated by law will accomplish the objectives of public notice and opportunity for comment, those procedures may be used in lieu of the provisions of this rule (e.g., SEPA). This rule does not apply to an application for a “major modification” or an application from a “major stationary source.”
- (h) Public information. In accordance with Rule 1.6, all information, except information protected from disclosure under any applicable law, including, but not limited to, RCW 70.94.205, shall be available for public inspection at the agency. This includes copies of notices of construction applications, orders, and modifications.

**Rule 6.1.4 Requirements for Approval**

- (a) Attainment or Unclassified area requirements. The following requirements apply to any new stationary source or modification proposed in an attainment or unclassified area:
  - (1) The proposed new stationary source or modification will comply with all applicable new source performance standards, national emission standards for hazardous air pollutants, national emission standards for hazardous air pollutants for source categories, emission standards adopted under chapter 70.94 RCW and applicable emission standards in ORCAA’s Regulations.
  - (2) The proposed new stationary source or modification will employ BACT for all pollutants not previously emitted or whose emissions would increase as a result of the new stationary source or modification.
  - (3) Allowable emissions from the proposed new stationary 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 stationary 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 levels listed in the following table for the pollutants for which the area has been designated nonattainment:

**Table 6.1.b Insignificant Impact Thresholds**

Pollutant	Annual Average	24 hour Average	8 hour Average	3 hour Average	1 hour Average
CO	-	-	0.5 mg/m <sup>3</sup>	-	2.0 mg/m <sup>3</sup>
SO <sub>2</sub>	1.0 µg/m <sup>3</sup>	5.0 µg/m <sup>3</sup>	-	25.0 µg/m <sup>3</sup>	30.0 µg/m <sup>3</sup>
PM <sub>10</sub>	1.0 µg/m <sup>3</sup>	5.0 µg/m <sup>3</sup>	-	-	-
NO <sub>2</sub>	1.0 µg/m <sup>3</sup>	-	-	-	-

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

- (4) If the proposed project is subject to WAC 173-400-141, Ecology has issued a final PSD permit.
  - (5) If the proposed new stationary source or the proposed modification will emit any toxic air pollutants regulated under chapter 173-460 WAC, the stationary source meets all applicable requirements of that program.
- (b) Nonattainment area requirements. The following requirements apply to any new stationary source or modification proposed in a nonattainment area:
- (1) The proposed new stationary source or modification will comply with all applicable new source performance standards, national emission standards for hazardous air pollutants, national emission standards for hazardous air pollutants for source categories, emission standards adopted under chapter 70.94 RCW and applicable emission standards in ORCAA's Regulations.
  - (2) The proposed new stationary source or modification will employ BACT for all air contaminants, except that if the new stationary source is a major stationary source or the proposed modification is a major modification it will achieve LAER for the air contaminants for which the area has been designated nonattainment and for which the proposed new stationary source or modification is major.
  - (3) The proposed new stationary source or modification will not cause any ambient air quality standard to be exceeded, will not violate the requirements for reasonable further progress established by the SOP and will comply with Rule 6.1.4(a)(3) for all air contaminants for which the area has not been designated nonattainment.
  - (4) If the proposed new stationary source is a major stationary source or the proposed modification is a major modification, the Agency 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 stationary source or the proposed modification is major for the air contaminant for which the area is designated nonattainment, allowable emissions from the proposed new stationary source or modification of that air 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 stationary source will be less than total actual emissions from existing sources (before submitting the application) so as to represent (when considered together with the nonattainment provisions of section 172 of the Federal Clean Air Act) reasonable further

progress. All offsetting emission reductions must satisfy the following requirements:

- (i) The proposed new level of allowable emissions of the source or emissions 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 that 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 required by the Federal Clean Air Act, including the SIP, cannot be credited.
  - (ii) The emission reductions must provide for a net air quality benefit. For marginal ozone nonattainment areas, the total emission 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 stationary source or modification 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 (in effect on July 1, 2000).
  - (iii) If the offsets are provided by another source, the reductions in emissions from that source must be federally enforceable by the time the order of approval for the new or modified stationary source is effective. An emission reduction credit issued under WAC 173-400-131 may be used to satisfy some or all of the offset requirements of this rule.
- (6) If the proposed new stationary 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 persons) 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 in the SIP.
  - (7) If the proposed new stationary source or modification is subject to WAC 173-400-141, Ecology has issued a final PSD permit for all air contaminants subject to permitting under WAC 173-400-141.
  - (8) If the proposed new stationary source or modification will emit any toxic air pollutants regulated under chapter 173-460 WAC, the source meets all applicable requirements of that chapter.

If the proposed new stationary source is a major stationary source within the meaning of WAC 173-400-113(1), or the proposed modification is a major modification within the meaning of WAC 173-400-113(1), the project meets the special protection requirements for federal Class I areas in WAC 173-400-117.



### **Rule 6.1.5 Notice of Completion – Order of Violation**

- (a) The owner or applicant shall notify the Agency of the completion of construction, installation, establishment or modification of a stationary source approved through a NOC application and, in the case of a new stationary source, the date upon which operation will commence. The Agency may inspect the new or modified stationary source and may issue an Order of Violation if it is found that it is not in accord with the approved NOC application or Order of Approval.
- (b) Upon receipt of an Order of Violation, the owner may appeal the order in accordance with the provisions and procedures in Rule 1.8 and Rule 2.1 of these Regulations.
- (c) The issuance of approval as provided by Rule 6.1.2(e) shall not relieve the owner of the obligation to comply with the laws or regulations as adopted by this Agency or prevent the Board or Control Officer from issuing violation notices as provided by Rule 1.5 (b).

### **Rule 6.1.6 Time Limit on Approval of Construction**

Approval to construct or modify a stationary source becomes invalid if construction is not commenced within eighteen months after receipt of the approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The Agency may extend the eighteen-month period upon a satisfactory showing that an extension is justified. An extension for a project operating under a PSD permit must also comply with public notice requirements in WAC 173-400-171. 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.

### **Rule 6.1.7 Temporary Portable Sources**

- (a) Notice of Intent to Operate. The owner or operator of the following sources shall notify the Agency of the intent to relocate and operate within the jurisdiction of the Agency at least 15 days prior to starting operation by submitting a complete Notice of Intent to Operate (NOI) in accordance with Rule 6.1.1:
  - (1) Relocation of temporary portable stationary sources that have a valid Order of Approval from Ecology or an air pollution control authority in the State of Washington; and,
  - (2) Nonroad engines, provided that the regulation of nonroad engines under this rule are subject to the limitations as set forth in 40 CFR Appendix A to Subpart A of 89 – State Regulation of Nonroad Internal Combustion Engines.
- (b) Requirements for Operation. Sources subject to Rule 6.1.7(a) shall meet the following requirements:
  - (1) The operation shall not cause a violation of ambient air quality standards;
  - (2) If the operation is in a nonattainment area, it shall not interfere with the scheduled attainment of ambient standards;

- (3) The temporary portable source shall operate in compliance with all applicable air pollution rules and regulations;
- (4) A temporary portable source that is considered a major stationary source within the meaning of Rule 1.4 shall also comply with the requirements in WAC 173-400-141 and Rule 6.1.4(b) as applicable;
- (5) Any operating condition in an Order previously issued to a temporary portable source shall remain in effect upon relocating the source within ORCAA's jurisdiction unless specifically superseded by condition in a subsequent Order;
- (6) Operation of nonroad engines shall not exceed 90 operating days in any calendar year anywhere within ORCAA's jurisdiction unless a regulatory Order has been issued by the Agency. The Agency may set specific conditions for operating during that time period as are reasonably necessary to assure compliance with applicable air pollution control requirements. For purposes of this rule, an operating day shall be considered any time equipment operates within a calendar day.

#### ***Rule 6.1.8 Conditions in Approval Orders Enforceable***

Failure to comply with any term or condition of an Approval Order constitutes a violation of this rule and is subject to penalties pursuant to RCW 70.94.430 and RCW 70.94.431.

#### ***Rule 6.1.9 Work Done Without Approval***

- (a) Where work, for which a Notice of Construction is required, is commenced or performed prior to making application and receiving approval, the Control Officer or an authorized agent may conduct an investigation as part of the Notice of Construction review. In such a case, an investigation fee, in addition to the fees of Rule 3.3 shall be assessed in an amount equal to 3 times the fees required of Rule 3.3. 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.
- (b) Where work for which a Notice of Intent to Operate is required is commenced prior to making application and receiving approval, the Control Officer or an authorized agent, may conduct an investigation as part of the Notice of Intent review. In such a case, an investigation fee, in addition to fees of Rule 3.3, shall be assessed in an amount equal to 3 times the Portable Air Contaminant Source fees of Rule 3.3. 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.

#### ***Rule 6.1.10 Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source***

- (a) Any person proposing to replace or substantially alter the emission control technology installed on an existing stationary source shall file a Notice of Construction application with the Agency. Replacement or substantial alteration of control technology does not include routine maintenance, repair or similar parts replacement.
- (b) For projects not otherwise reviewable under Rule 6.1, the Agency may:

- (1) Require that the owner or operator employ RACT on the affected stationary source;
  - (2) Prescribe reasonable operation and maintenance conditions for the control equipment; and,
  - (3) Prescribe other requirements as authorized by chapter 70.94 RCW.
- (c) Within thirty days of receipt of a Notice of Construction application under this rule the Agency shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Within thirty days of receipt of a complete NOC application under this rule the Agency shall either issue an order of approval or a proposed RACT determination for the proposed project.
- (d) Construction shall not “commence” on a project subject to review under this rule until the Agency issues a final order of approval. However, any NOC application filed under this rule shall be deemed to be approved without conditions if the Agency takes no action within thirty days of receipt of a complete NOC application.
- (e) Approval to replace or substantially alter emission control technology 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. The Agency may extend the eighteen-month period upon 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.

**Rule 6.1.11 Change of Conditions**

- (a) The owner or operator of a stationary source may request, at any time, a change in conditions of an approval order issued by the Agency and the Agency may approve the request provided the Agency finds that:
- (1) The change in conditions will not cause the source to exceed an emissions standard;
  - (2) No ambient air quality standard or PSD increment will be exceeded as a result of the change;
  - (3) The change will not adversely impact the ability of the Agency to determine compliance with an emissions standard;
  - (4) The revised order will continue to require BACT, as defined at the time of the original approval, for each new stationary source approved by the order except where the Federal Clean Air Act requires LAER; and
  - (5) The revised order meets the requirements of Rule 6.1, as applicable.
  - (6) If the order was issued under WAC 173-400-141, the revised order will meet any applicable requirements of that section.
- (b) Actions taken under this rule are subject to the public involvement provisions of Rule 6.1.3.

- (c) Requests shall be made on forms provided by the Agency and shall follow the procedures and timelines for a NOC application as specified in Rule 6.1. The fee schedule found in Rule 3.3 shall also apply to these requests.

#### **Rule 6.1.12 Voluntary Limits on Emissions**

- (a) Upon request by the owner or operator of a source, the Agency 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 the Agency.
- (b) A condition contained in an order issued under this rule 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 Washington State Implementation Plan. The term "condition" refers to limits on production or other limitations, in addition to emissions limitation.
- (c) Any order issued under this rule shall include monitoring, record keeping and reporting requirements sufficient to ensure that the source complies with any condition established under this rule. Monitoring requirements shall use terms, test methods, units, averaging periods, and other statistical conventions consistent with the requirements of WAC 173-400-105.
- (d) Any order issued under this rule shall be subject to the notice and comment procedures under Rule 6.1.3.
- (e) The terms and conditions of a regulatory order issued under this rule shall be federally enforceable, upon approval of this rule as an element of the Washington State Implementation Plan. Any proposed deviation from a condition contained in an order issued under this rule shall require revision or revocation of the order.

### **RULE 6.2 OUTDOOR BURNING**

It is the policy of the Olympic Region Clean Air Agency (ORCAA) to achieve and maintain high levels of air quality, and, to this end, minimize to the greatest extent reasonably possible the burning of outdoor fires. Consistent with this policy, the Board does hereby declare that such fires should be allowed only on a limited basis under strict regulation and close control. It is the further policy of the Board to encourage the fostering and development of an alternate technology or method of disposing of natural vegetation, which is reasonably economical and less harmful to the environment.

#### **Rule 6.2.1 The provisions of this rule apply to:**

- (a) Agricultural burning
- (b) Fire training fires
- (c) Land clearing burning
- (d) Native American ceremonial fires
- (e) Recreational fires
- (f) Residential burning
- (g) Storm and flood debris burning
- (h) Weed abatement fires

## **Rule 6.2.2 Definitions**

When used in this Rule the following definitions shall apply:

**“Agricultural burning”** means the burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation and/or crop rotation, or where identified as a best management practice by the agricultural burning practices and research task force established in [RCW 70.94.6528](#) or other authoritative source on agricultural practices. Propane flaming for the purpose of vegetative debris removal is considered commercial agricultural burning.

**“Air Pollution Episode”** means a period when a forecast, alert, warning, or emergency air pollution state is declared, as stated in chapter [173-435 WAC](#).

**“Burn ban”** means an “air pollution episode”, or a period of “impaired air quality” as defined in [RCW 70.94.473](#).

**“Extinguish”** means to put out a fire completely. It must be cool to the touch and not smoldering or smoking.

**“Firewood”** means clean, dry, seasoned, untreated wood used as fuel in an Indian ceremonial fire or recreational fire.

**“Land Clearing Burning”** means outdoor burning of trees, stumps, shrubbery or other natural vegetation from land clearing projects (i.e. projects that clear the land surface so it can be developed, used for a different purpose, or left unused).

**“Outdoor Burning”** means the combustion of material in an open fire or in an open container, without providing for the control of combustion or the control of the emissions from the combustion.

**“Nuisance”** means an emission that unreasonably interferes with the use and enjoyment of property.

**“Recreational Fire”** means cooking fires or campfires using firewood which occur in designated areas, or on private property. Fires used for disposal purposes are not recreational fires.

**“Residential Burning”** means the outdoor burning of leaves, clippings, prunings and other yard and gardening refuse originating on the maintained area of residential property (i.e. lands immediately adjacent and in close proximity to a human dwelling) and burned on such lands by the property owner and/or other responsible person.

**“Urban Growth Area”** (UGA) means land, generally including land associated with an incorporated city, designated by a county for urban growth under [RCW 36.70A.110](#).

**Rule 6.2.3 No residential or land clearing burning is allowed in the following cities and/ or UGAs:**

Clallam	Grays Harbor	Jefferson	Mason	Pacific	Thurston
Carlsborg Clallam Bay Forks Joyce Port Angeles Sekiu Sequim	Aberdeen Hoquiam	Port Townsend Irondale Port Hadlock	Allyn Belfair Shelton	Ilwaco Long Beach Raymond Seaview South Bend	Bucoda Grand Mound Lacey Olympia Rainier Tenino Tumwater Yelm

**Rule 6.2.4 Summer Burn Restrictions**

No residential or land clearing burning is allowed in Thurston County from July 15<sup>th</sup> through October 15<sup>th</sup>.

**Rule 6.2.5 Prohibitions and restrictions ([WAC 173-425-050](#))**

- (a) It shall be unlawful for any person to cause or allow an outdoor fire containing prohibited materials which include but are not limited to garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper, cardboard, treated wood, processed wood, construction/ demolition debris, metal, or any substance which when burned releases toxic emissions, dense smoke, or obnoxious odors. A limited amount of paper may be used to start the fire. ORCAA may allow the limited burning of prohibited materials for fire training.
- (b) It is illegal to burn vegetation originating in any area where burning is prohibited as listed in Rule 6.2.3.
- (c) A person capable of extinguishing the fire must be in attendance at all times, and the fire must be extinguished before leaving it.
- (d) Containers (not regulated under [WAC 173-400-070\(1\)](#)) used for outdoor burning, must be constructed of concrete or masonry with a completely enclosed combustion chamber and equipped with a permanently attached spark arrester constructed of iron, heavy wire mesh, or other noncombustible material with openings not larger than one-half inch.
- (e) The use of burn barrels is illegal.
- (f) A fire protection agency, county, conservation district, or other governing body may enforce its own regulations that are stricter than those set forth in this rule.
- (g) It shall be unlawful for any person to cause or allow an emission from outdoor burning that is detrimental to the health, safety, or welfare of any person, that causes damage to property or business, or that causes a nuisance.

**Rule 6.2.6 Curtailment ([WAC 173-425-050](#))**

- (a) No outdoor fire shall be ignited in a geographical area where a burn ban has been declared.
- (b) The person responsible for an outdoor fire must extinguish the fire when a burn ban is declared.
- (c) Three (3) hours after a burn ban is declared smoke visible from all types of outdoor burning, except land clearing burning, will constitute prima facie evidence of unlawful outdoor burning.
- (d) Eight (8) hours after a burn ban is declared smoke visible from land clearing burning will constitute prima facie evidence of unlawful outdoor burning.

**Rule 6.2.7 Recreational Burning**

The following burn practices shall be used for recreational burning where allowed.

- (a) Maximum pile size is three (3) feet in diameter and two (2) feet high. ([WAC 173-425-060](#))
- (b) Only dry, seasoned firewood or charcoal and enough clean paper necessary to start a fire may be burned.
- (c) No recreational fires are allowed within the city limits of Lacey, Olympia, and Tumwater, and unincorporated areas of Thurston County lying within or between the municipal boundaries of these cities. Charcoal, propane, or natural gas may be used without a permit.

**Rule 6.2.8 Permit Program ([WAC 173-425-060](#))**

ORCAA may consult with fire protection authorities, conservation districts, or counties to determine if any of these agencies are capable and willing to serve as the permitting agency and/or enforcing agency for particular types of burning. Permitting agencies may use, as appropriate, a verbal, electronic, written, or general permit established by rule, for any type of burning that requires a permit.

- (a) Permitting agencies may deny an application or revoke a previously issued permit if it is determined that the application contained inaccurate information, or failed to contain pertinent information.
- (b) Failure to comply with any term or condition of a permit constitutes a violation of this rule and is subject to penalties pursuant to RCW 70.94.430 and RCW 70.94.431.
- (c) Types of burning that require a written permit.
  - (1) Agricultural burning shall abide by Rule 6.2 and all conditions of the written permit issued by ORCAA or another permitting agency.
  - (2) Fire training fires, except as provided in [RCW 52.12.150](#), may be conducted provided all of the following requirements are met:
    - (i) Fire training shall not occur during a burn ban.
    - (ii) The fire must be for training purposes.

- (iii) The agency conducting the training fire shall obtain any permits, licenses, or other approvals required by any entity for such training fires. All permits, licenses, and approvals must be kept on-site and available for inspection.
- (3) Native American ceremonial fires within the city limits of Olympia, Lacey, and Tumwater and unincorporated areas of Thurston County lying within or between the municipal boundaries.
- (4) Land Clearing Burning shall abide by Rule 6.2 and all conditions of the written permit issued by ORCAA or another permitting agency.
- (5) Storm and flood debris resulting from a declared emergency by a governmental authority may be burned within two years of the event (storm). Burning shall abide by Rule 6.2 and all conditions of the written permit issued by ORCAA or another permitting agency.
- (6) Weed abatement fires.
- (d) Where residential burning is allowed and no written burn permits are issued, burning shall abide by Rule 6.2 and the following:
  - (1) Maximum pile size is four (4) feet in diameter and three (3) feet high.
  - (2) Only one pile shall be burned at a time, and each pile must be extinguished before lighting another.
  - (3) Only natural vegetation may be burned.
  - (4) No fires are to be within fifty (50) feet of structures or within five hundred (500) feet of forest slash.
  - (5) No tree stumps may be burned.

### **RULE 6.3 ASBESTOS**

The Board of Directors of the Olympic Region Clean Air Agency has found that the use, production, and emission of air contaminants into the atmosphere in the ORCAA region poses a threat to the public health, safety, and welfare of the citizens of the region and causes degradation of the environment. Therefore the Board, in order to control the emission of toxic air pollutants and to provide uniform enforcement of air pollution control in its jurisdiction and to carry out the mandates and purposes of the Washington Clean Air Act, the Federal Clean Air Act, and the National Emission Standards for Hazardous Air Pollutants (NESHAPS) (40 CFR Part 61), declares the necessity of the adoption of these rules pertaining to air contaminants.

#### ***Rule 6.3.1 Definitions***

When used in this Rule the following definitions shall apply:

**“Adequately Wet”** means sufficiently mixed, saturated, penetrated, or coated with a continuous fine mist of water or an aqueous solution to prevent visible emissions.

**“AHERA Building Inspector”** means a person who has successfully completed the training requirements for a building inspector established by EPA Asbestos Model Accreditation Plan: Interim Final Rule (40 CFR Part 763, Appendix C to Subpart E.I.B.3) and whose certification is current.



**“Asbestos”** means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, and actinolite-tremolite.

**“Asbestos Containing Material (ACM)”** means any material containing at least one percent (1%) asbestos as determined by polarized light microscopy using the Interim Method of the Determination of Asbestos in Bulk Samples contained in Appendix A of Subpart E in 40 CFR Part 763. Asbestos containing waste material includes asbestos containing material that has been disturbed or deteriorated in a way that is no longer an integral part of the structure or component, asbestos waste from control equipment, materials used to enclose the work area during an asbestos project, asbestos containing material collected for disposal, asbestos contaminated waste, debris, containers, bags, protective clothing, or HEPA filters. Asbestos containing waste material does not include samples of asbestos containing material taken for testing or enforcement purposes. This term does not include asbestos containing roofing material, regardless of asbestos content, when all of the following conditions are met:

- (a) The asbestos containing roofing material is in good condition and is not peeling, cracking, or crumbling; and
- (b) The binder is petroleum based, the asbestos fibers are suspended in that base, and the individual fibers are still encapsulated; and
- (c) The binder still exhibits enough plasticity to prevent the release of asbestos fibers in the process of removing it; and
- (d) The building, vessel, or structure containing the asbestos containing roofing material will not be demolished by burning or mechanical renovation/demolition methods that may release asbestos fibers.

**“Asbestos Encapsulation”** means the application of an encapsulant to the asbestos materials to control the release of asbestos fibers into the air.

**“Asbestos Project”** means the disturbance, destruction, salvage, or disposal of any asbestos material. This term includes the removal and disposal of asbestos containing waste material from manufacturing operations that combine asbestos containing material with any other material(s) to produce a product and the removal and disposal of stored asbestos containing material or asbestos containing waste material. This term does not include the removal of less than 10 linear feet or 11 square feet of asbestos containing material. Nor does it include the application of duct tape, rewettable glass cloth, canvas, cement, paint, or other nonasbestos materials to seal or fill exposed areas where asbestos fibers may be released.

**“Asbestos Survey”** means an inspection using the procedures contained in 40 CFR 763.86 and 40 CFR 763.87, or an alternate method that has received prior written approval from the Control Officer, or designee, to determine whether materials or structures to be worked on, removed, disturbed, or demolished, contain asbestos. In residential dwellings, asbestos samples may be taken by the resident owner of the dwelling.

**“Certified Asbestos Worker/Supervisor”** means a person who is certified as required by the Washington State Department of Labor and Industries under WAC 296-65-010, WAC 296-65-012, and WAC 296-65-030 to undertake an asbestos project or, for federal

employees working in a federal facility, trained in an equally effective program approved by the United States Environmental Protection Agency.

**“Collected for Disposal”** means asbestos containing material properly sealed in a leak tight, labeled container while adequately wet.

**“Component”** means any equipment, pipe, structural member, or other item covered, coated, or manufactured from asbestos containing material.

**“Controlled Area”** means an area to which only certified asbestos workers, or other persons authorized by the Washington Industrial Safety and Health Act, have access. For residential dwellings, the controlled area is the interior of the dwelling, garage, or fenced area that is secured, and where warning signs are posted accordingly.

**“Demolition”** means the wrecking, dismantling, fire department training, or removal of any load supporting structural member that makes that portion of the structure unusable. Dismantling an owner occupied residential dwelling, or portion thereof, by hand does not constitute a demolition.

**“Emergency”** means a renovation operation that was not planned but results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. This term includes operations necessitated by nonroutine failures of equipment.

**“Facility”** means any institutional, commercial, public, industrial, or residential structure, installation, building, (including any building containing condominiums or individual dwelling units operated as a residential cooperative) any vessel; ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling, is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this subpart is not excluded, regardless of its current use of function.

**“Fugitive Source”** means any sources of emissions not controlled by an air pollution control device.

**“HEPA Filter”** means a High Efficiency Particulate Air filter found in respirators and vacuum systems capable of filtering 0.3 micrometer mean aerodynamic diameter particles with 99.97% efficiency.

**“Leak Tight Container”** means a dust tight container, at least 6 mil thick, that encloses the asbestos containing waste material and prevents solids or liquids from escaping or spilling out. Such containers may include sealed plastic bags, metal or fiber drums, and polyethylene plastic.

**“Local Exhaust Ventilation and Collection System”** means a system as described in Appendix J of EPA 560/565-024 (Guidance for Controlling Asbestos Containing Materials in Buildings).

**“Owner or Operator”** means any person who owns, leases, operates, controls, or is responsible for activities at an asbestos project site, or an asbestos project operation, or both.

**“Owner Occupied Residential Dwelling”** means any single family housing unit which is permanently or seasonally occupied by the owner of the unit both prior to and after renovation or demolition. This term includes houses, mobile homes, trailers, houseboats, and houses with a ‘mother-in-law apartment’ or ‘guest rooms.’ This term does not include structures that are to be demolished or renovated as part of a commercial or public project. Nor does this term include any mixed-use building, structure, or installation that contains a residential unit, or any building that is leased, used as a rental, or for commercial purposes.

**“Renovation”** means the altering of a structure in a way that removes structural supports and/or other framing, but does not render the building uninhabitable.

**“Visible Asbestos Emissions”** means any asbestos containing materials that are visually detectable without the aid of instruments.

**“Waste Generator”** means any owner or operator of a source whose act or process produces asbestos containing waste material.

**“Waste Shipment Record”** means the shipping document required to be originated and signed by the owner or operator, used to track and substantiate the disposition of asbestos containing waste material.

**“Work Day”** means Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

### ***Rule 6.3.2 Notification Requirement***

- (a) Application Requirements – Applicability. It shall be unlawful for any person to cause or allow work on an asbestos or demolition project unless the owner or operator has obtained written approval from the Control Officer, or designee, as follows:
  - (1) A written “Asbestos Permit” or a “Demolition Permit” shall be submitted on Agency provided forms by the owner or operator for approval by the Control Officer, or designee, before any work on an asbestos project or demolition begins. It shall be unlawful for any person to cause or allow any false or misrepresenting information on either form.
  - (2) The written permit for asbestos removal and/or demolition shall be accompanied by the appropriate fee, found in Table 3.5(a).
  - (3) The written permit for a demolition shall also include a certification that there is no known asbestos containing material remaining in the area of the demolition.
  - (4) The duration of an asbestos project or demolition shall have a starting and completion date that is commensurate with the amount of work involved and shall not exceed one (1) year beyond the original starting date.

- (5) A copy of the approved permit and asbestos survey and all subsequent amendments shall be available for inspection at the asbestos project or demolition site.
- (6) Submission of an “Asbestos Permit” shall be prima facie evidence that the asbestos project involves asbestos containing material.
- (7) Permits for multiple asbestos projects may be filed on one form, if the following criteria are met:
  - (i) The work will be performed continuously by the same contractor; and
  - (ii) The structures are in a contiguous group and the property owner has the same original post office box or mailing address; and
  - (iii) All asbestos, renovation or demolition projects are bid as a group under the same contract; and
  - (iv) The project specifications regarding location and dates are provided in detail in the form of a work plan. The work plan submitted must include:
    - (A) a map of the structures involved in the project;
    - (B) the site address for each structure;
    - (C) the amount and type of asbestos containing material in each structure (for structures with ACM);
    - (D) the schedule for performing asbestos project and demolition work;
    - (E) a copy of the asbestos survey for all structures that do not contain asbestos containing materials; and
    - (F) any other information requested.
- (b) Permit Requirements – Advance Notification Period. Any permits required by Rule 6.3.2(a) shall be considered incomplete until all the information required by Rule 6.3.2(a) is received by the Control Officer, or designee, and accompanied by the appropriate, nonrefundable fee. The appropriate fee shall be determined by Table 3.5(a):
- (c) The notification for either an asbestos or demolition project shall be 10 working days, unless the project falls into a category below:
  - (1) The project is deemed an emergency.
  - (2) Prior Notification is required for removal and disposal of the following nonfriable asbestos containing materials: caulking, window-glazing, or roofing (being removed by mechanical means). All other asbestos project and demolition requirements remain in effect.
  - (3) Prior Notification is required for asbestos removal or demolitions involving owner-occupied, single-family residences.
- (d) Annual Permits. In addition to the permit requirement of Rule 6.3.2(a) and 6.3.2(b), the owner or operator of a facility may file for approval by the Control Officer, or designee, an annual written permit to conduct asbestos projects on one or more buildings, vessels, or structures at the facility during each calendar year for the purpose of scheduled maintenance or emergency repairs. The

requirements of Rule 6.3.2(a)(1) through 6.3.2(a)(4), 6.3.2(a)(6), and 6.3.2(b) shall not apply to asbestos projects undertaken during the calendar year at the applicable facility if all of the following conditions are met:

- (1) Annual Permit – Restrictions.**
  - (i)** The annual written permit shall be filed for approval by the Control Officer, or designee, before commencing work on any asbestos project to be specified in an annual permit.
  - (ii)** The total amount of asbestos containing material for all asbestos projects from each structure, vessel, or building in a calendar year under this rule shall be limited to less than 260 linear feet on pipe and 160 square feet on other components.
  - (iii)** The permit requirements of Rules 6.3.2(a) and 6.3.2(b) shall apply to any asbestos project involving at least 260 linear feet on pipes or 160 square feet on other components for each building, vessel, or structure at the facility, including residential dwellings.
  - (iv)** A copy of the written annual permit shall be available for inspection at the property owner or operator's office until the end of the calendar year.
  - (v)** Asbestos containing waste material generated from asbestos projects filed under an annual permit may be stored for disposal at the facility if all of the following conditions are met:
    - (A)** All asbestos containing waste material shall be treated in accordance with Rules 6.3.4 (a)(1), 6.3.4(a)(2), and 6.3.4(a)(3);
    - (B)** Accumulated asbestos containing waste material collected during each calendar quarter shall be kept in a controlled storage area posted with one (1) or more asbestos warning signs and accessible only to authorized persons; and
    - (C)** All stored asbestos containing waste material shall be deposited at a waste disposal site within ninety (90) calendar days after collection for disposal unless the asbestos containing waste is handled as dangerous waste in accordance with chapter 173-303 WAC. The waste disposal site shall be operated in accordance with the provisions of 40 CFR 61.154 or 61.155 and approved by the appropriate health department within the Agency's jurisdiction.
- (2) Annual Permit – Reporting Requirements and Fees.** Annual written permit required by Rule 6.3.2(c) shall be submitted by the facility owner or operator on forms provided by the Agency and filed for approval by the Control Officer, or designee, accompanied by the annual fee stated in Rule 3.5.
- (3) Annual Permit – Quarterly Reporting Requirements.** In addition to the written annual permit requirements of Rule 6.3.2(c), the facility owner or operator shall submit quarterly written reports to the Control Officer, or designee, within fifteen (15) days after the end of each calendar quarter.

- (4) Work Done Without Notification – Any work on an asbestos project, renovation, or demolition, for which notification is required, and is commenced or performed prior to obtaining approval from the Control Officer, or designee, constitutes a violation of this Rule.
- (e) Permit Requirements – Amendments. It shall be unlawful for any person to cause or allow any deviation from information contained in a written permit unless an amended permit has been received and approved by the Control Officer, or designee. Amended permits required by this rule shall be filed by the original applicant, received by the Control Officer, or designee, no later than the last filed completion date, and are limited to the following revisions:
- (1) A change in the job size category because of additional asbestos containing material. In this case, the fee shall be increased accordingly and the fee shall be equal to, but not exceed, the fee amount provided for each size category specified in Rule 3.5;
  - (2) The asbestos project, renovation, or demolition starting or completion date, provided that the total duration of the work does not exceed one (1) calendar year beyond the original submission date. If the appropriate waiting period has passed, further waiting is not required. If a waiting period is required, it shall be based on the original submission date.
  - (3) Name, mailing address, and telephone number of the owner or operator of the asbestos project site or operation;
  - (4) Waste disposal site, provided the revised waste disposal site is operated in accordance with the provisions of 40 CFR 61.154 or 40 CFR 61.155 and approved by the appropriate health department within the Agency’s jurisdiction; and
  - (5) Any other information requested by the Control Officer, or designee.
- (f) Opportunity for Amendment – In no case shall an amendment be accepted and approved by the Agency if it is filed after the last completion date on record. In the case of additional work to be performed after the last completion date on record, a new permit shall be submitted to the Agency and shall be accompanied by the appropriate nonrefundable fee as set forth in Table 3.5(a) of these Regulations.
- (g) Advance Notification Period – Exemptions (Emergency). The Control Officer, or designee, may waive the required ten working day advance notification period in Rule 6.3.2 for an asbestos project or demolition if the facility owner demonstrates to the Control Officer, or designee, that there is an emergency as follows:
- (1) There was a sudden, unexpected event that resulted in a public health or safety hazard; or
  - (2) The project must proceed immediately to protect equipment, ensure continuous vital utilities, or minimize property damage; or
  - (3) Asbestos containing materials encountered that were not identified during the asbestos survey; or
  - (4) The project must proceed to avoid imposing an unreasonable financial burden to the property owner.

The request for an Emergency Project must meet the requirements below:

- (5) Emergency Asbestos Project. The owner of a facility may submit a signed written request to waive the required ten (10) working day advance notification period for an asbestos project. The request shall be submitted for approval by the Control Officer, or designee, and be accompanied by the required permit and appropriate fee as required by Rules 3.5, 6.3.2(a), and 6.3.2(b). Any request for approval of an emergency asbestos project shall include, at a minimum:
  - (i) The complete name, mailing address, and telephone number of the facility owner or operator, including city and zip code;
  - (ii) The complete street address or location of the asbestos project site, including the city and zip code;
  - (iii) A description of the sudden and unexpected event including the date the emergency occurred; and
  - (iv) An explanation of how the sudden and unexpected event has caused an emergency condition.
  
- (6) Government Ordered Demolition. The owner of a facility may submit a signed written request to waive the required ten (10) working day advance notification period for a demolition if the request is accompanied by a copy of an order from a federal, state, or local government agency that requires demolition before the ten (10) working day advance notification period has elapsed. The request and copy of the order shall be submitted for approval by the Control Officer, or designee, and be accompanied by the required permits and appropriate fee as required by Rules 3.5, 6.3.2(a) and 6.3.2(b). Any request for approval of an emergency demolition shall include, at a minimum:
  - (i) The complete name, mailing address, and telephone number of the owner or operator of the facility and the asbestos/demolition project including the city and zip code;
  - (ii) The complete street address or location of the demolition site, including the city and zip code;
  - (iii) The name, title, and authority of the government representative who has ordered the demolition;
  - (iv) The reason why the demolition was ordered; and
  - (v) The dates on which the order was received and the demolition was ordered to begin.

***Rule 6.3.3 Procedures for Asbestos Emission Control***

- (a) Asbestos Project – Requirements. It shall be unlawful for any person to cause or allow work on an asbestos project unless the following procedures are employed:
  - (1) Any work on an asbestos project shall be performed by certified asbestos workers under the direct, onsite supervision of a certified asbestos

supervisor. This certification requirement shall not apply to asbestos projects conducted in an owner-occupied, single family residence performed by the resident owner of the dwelling in accordance with Rule 6.3.3(b).

- (2) The asbestos project shall be conducted in a controlled area, clearly marked by barriers and asbestos warning signs. Access to the controlled area shall be restricted to authorized personnel only, including occasions when asbestos abatement is not actively occurring (e.g., when workers are on break or temporarily off-site).
- (3) All asbestos containing material shall be kept adequately wet while being removed from any structure, building, vessel, or component.
- (4) All asbestos containing material that has been removed or may have fallen off components during the course of an asbestos project shall be:
  - (i) Kept adequately wet until collected for disposal; and
  - (ii) Collected for disposal at the end of each working day; and
  - (iii) Contained in a controlled area at all times until transported to a waste disposal site; and
  - (iv) Carefully lowered to the ground or a lower floor, not dropped, thrown, slid, or otherwise handled in such a manner that may risk further damage to them; or
  - (v) Transported to the to the ground via dust tight chutes or containers if they have been removed or stripped more than 50 feet above ground level and were not removed as a unit or in sections.
- (5) The exterior of each leak-tight container shall be free of all asbestos residue and shall be permanently labeled with an asbestos warning sign as specified by the Washington State Department of Labor and Industries or the federal Occupational Safety and Health Administration.
- (6) No visible emissions shall result from an asbestos project.
- (7) Mechanical assemblies or components covered, coated, or manufactured from asbestos containing material, removed as a unit or in sections, shall be contained in a leak tight wrapping after wetting and labeled in accordance with Rule 6.3.4(a)(1)(iii).
  - (i) For large components such as boilers, steam generators, and large tanks, the asbestos containing material is not required to be removed or stripped if the components can be removed, stored, transported, and deposited at a waste disposal site or reused without disturbing or damaging the asbestos.
  - (ii) Metal components such as valves, fire doors, and reactor vessels that have internal asbestos containing material may avoid wetting and leak tight wrapping if:
    - (A) All access to the asbestos containing material is welded shut; or
    - (B) The component has mechanical seals in place that separate the asbestos containing material from the environment and these seals cannot be removed by hand; and



**(C)** The components are labeled in accordance with Rule 6.3.4(a)(1)(iii).

**(8)** Local exhaust ventilation and collection systems used on an asbestos project shall:

**(i)** Be maintained to ensure the integrity of the system; and

**(ii)** When feasible, have one or more transparent plastic or glass viewing ports installed on the walls of the enclosure in such a manner that will allow for viewing of all components inside the enclosure. When available, existing windows may be utilized for viewing ports.

**(9)** Local exhaust ventilation and collection systems, control devices, and vacuum systems, used on an asbestos project shall be equipped with a HEPA exhaust filter, maintained in good working order, and exhibit no visible emissions.

**(10)** It shall be unlawful for any person to create or allow a condition that results in the disturbance, or likely disturbance, of asbestos containing material (e.g., not removing all asbestos containing material in a structure scheduled for demolition or partially removing asbestos containing material and leaving remaining asbestos containing material in a state that makes it more susceptible to being disturbed, or leaving it on the ground, outside and open to the environment.

**(b)** Asbestos Project – Exemptions for Residential Dwellings. The requirements of 6.3.3(a)(1) shall not apply to the removal of asbestos on furnace interiors and direct applied mudded asbestos insulation on hot water heating systems. This work must be done by asbestos certified individuals in accordance with Washington State Labor and Industries or Occupational Safety Health Administration standards.

**(c)** Renovation – Requirements. It shall be unlawful for any person to cause or allow any renovation unless prior to renovation, the property owner or the owner's agent obtains an asbestos survey, or can otherwise competently declare the material being removed as not containing asbestos and file appropriate permits.

**(d)** Demolition – Requirements. It shall be unlawful for any person to cause or allow the demolition of any building, vessel, structure, or portion thereof, unless all asbestos containing materials have been removed from the area to be demolished. It shall be unlawful for any person to cause or allow any demolition that would disturb asbestos containing material or prevent access to the asbestos containing material for removal and disposal.

**(e)** Demolition – Asbestos Removal Exemptions. Asbestos containing material need not be removed before the demolition of any building, vessel, structure, or portion thereof if:

**(1)** The asbestos containing material is on a component that is encased in concrete or other material determined by the Control Officer, or designee, to be equally effective in controlling asbestos emissions. In this case, the

permit requirements of Rule 6.3.2 shall apply and these materials shall be kept adequately wet whenever exposed during demolition until disposed of in accordance with Rule 6.3.4(a)(2); or

(2) The asbestos containing material could not be removed prior to demolition because it is not accessible until after demolition begins. In this case, the permit requirements of Rule 6.3.2 shall apply and the exposed asbestos containing material and asbestos contaminated debris shall be kept adequately wet at all times until disposed of in accordance with Rule 6.3.4(a)(2); or

(3) The material was not accessible for removal because of hazardous conditions. Such conditions may include environments that are contaminated by toxic substances, structures or buildings that are structurally unsound and in danger of imminent collapse, or other conditions that are immediately dangerous to life and health. Under such conditions, the facility owner or operator may submit a signed written request for conditional approval by the Control Officer, or designee, to waive the requirements of Rule 6.3.3(c). In this case, the permit requirements of Rule 6.3.2 shall apply and the exposed asbestos containing material and asbestos contaminated debris shall be kept adequately wet at all times until disposed of in accordance with Rule 6.3.4(a)(2). Evidence of the hazardous condition, as documented by a state or local government agency, or other competent person, shall accompany the written request in addition to the permit and appropriate fee as required by Rule 6.3.2. The request for exemption from Rule 6.3.3(c) shall include, at the minimum:

- (i) The complete name, mailing address, and telephone number of the owner or operator of the facility, including the city and zip code;
- (ii) The complete street address or location of the demolition site, including the city and zip code;
- (iii) The name, title, and authority of the person who has determined the hazardous condition;
- (iv) A description of the hazardous condition that prevents the removal of asbestos containing material prior to demolition, including the amount, type, and specific location(s) within the structure of such materials; and
- (v) The procedures that will be used to prevent the release of asbestos fibers into the ambient air.

(f) **Alternative Control Measures.** The owner or operator of an asbestos project may submit a signed written request to use an alternative control measure that is equally effective in controlling asbestos emissions, for approval by the Control Officer, or designee. The written request shall include, at a minimum:

- (1) The complete name, mailing address, and telephone number of the owner or operator of the asbestos project, including the city and zip code;
- (2) The complete street address or location of the site, including the city and zip code;

- (3) A description of the material, including the type and percentage of asbestos in the material, total amount of material involved, and the specific location(s) of the material on the site; and
- (4) The reason why an alternative control measure is required and a description of the proposed alternative control measure to be employed, including the procedures that will be used to prevent the release of asbestos fibers into the ambient air.

#### ***Rule 6.3.4 Disposal of Asbestos Containing Waste Material***

- (a) Disposal Requirements. It shall be unlawful for any person to cause or allow work on an asbestos project unless the following procedures are employed during the collection, processing, packaging, transporting, or deposition of any asbestos containing material:
  - (1) Treat all asbestos containing waste material as follows:
    - (i) Adequately wet all asbestos containing waste material and mix asbestos waste from control devices, vacuum systems, or local ventilation and collection systems with water to form a slurry;
    - (ii) After wetting, seal all asbestos containing waste material in leak tight containers or wrapping to ensure that they remain adequately wet when deposited at a waste disposal site;
    - (iii) Permanently label wrapped materials and each container with an asbestos warning sign as specified by the Washington State Department of Labor and Industries or the Occupational Safety and Health Administration. Permanently mark the label with the date the material was collected for disposal, the name of the waste generator, the name and affiliation of the certified asbestos supervisor, and the location at which the waste was generated;
    - (iv) Ensure that the exterior of each container is free of all asbestos residue; and
    - (v) Exhibit no visible emissions during any of the operations required by this rule.
  - (2) All asbestos containing waste material shall be deposited within ten (10) calendar days after collection for disposal at a waste disposal site operated in accordance with the provisions of 40 CFR 61.154 or 40 CFR 61.155 and approved by the appropriate city or county department. The requirement is modified by Rule 6.3.2(c) for asbestos containing waste material from asbestos projects conducted under annual permit.
  - (3) All asbestos containing waste materials, handled as dangerous waste in accordance with chapter 173-303 WAC, shall be excluded from the requirements of Rule 6.3.4(a)(1) and 6.3.4(a)(2).
- (b) Alternative Storage Method – Asbestos Storage Facility. The owner or operator of a licensed asbestos abatement company or disposal facility may apply to the Control Officer, or designee, to establish a facility for the purpose of collecting and temporarily storing asbestos containing waste material.

- (1) It is unlawful to cause or allow the operation of a temporary asbestos storage facility without the prior written approval of the Control Officer, or designee.
  - (2) The owner or operator must request authorization for an asbestos storage facility. When approved, the Authorization will be returned and be available at the facility.
  - (3) An asbestos storage facility shall meet the following general conditions:
    - (i) Asbestos containing waste material must be stored in a container with a single piece liner at least 6 mil in thickness; and
    - (ii) Said container must be in a secured building or in a secured exterior enclosure; and
    - (iii) The container and enclosure must be locked except during transfer of asbestos containing waste material and have asbestos warning signs posted on the container;
    - (iv) Storage, transportation, disposal, and return of the waste shipment record to the waste generator will not exceed the 45 day requirement of 40 CFR Part 61.150; and
    - (v) A copy of all waste shipment records shall be retained for at least 2 years, including a copy of the waste shipment record signed by the owner or operator of the designated waste disposal site. A copy of the waste shipment records shall be provided to the Agency upon request.
- (c) Alternative Disposal Method – Asbestos Cement Water Pipe. Asbestos cement water pipe used on public right of ways or public easements shall be excluded from the disposal requirements of Rule 6.3.4 (a)(2) if the following conditions are met:
- (1) Asbestos cement pipe may be buried in place if the pipe is left intact (e.g., not moved, broken or disturbed) and covered with at least three (3) feet or more of non-asbestos fill material and the state, county or city authorities are notified in writing of buried asbestos cement pipe; and
  - (2) All asbestos containing waste material, including asbestos cement water pipe fragments that are one (1) linear foot or less, protective clothing, HEPA filters, or other asbestos contaminated material, debris, or containers, shall be subject to the requirements of Rule 6.3.

***Rule 6.3.5 Controlled and Regulated Substances***

- (a) No person shall cause or allow visual asbestos emissions, including emissions from asbestos waste materials
  - (1) On public or private lands, on developed or undeveloped properties and on any open uncontrolled and non-designated disposal sites;
  - (2) During the collection, processing, handling, packaging, transporting, storage and disposal of any asbestos containing waste material; or
  - (3) From any fugitive source.

## **REGULATION 7 – PROHIBITIONS**

### **RULE 7.1 INTERFERENCE OR OBSTRUCTION**

No person shall willfully interfere with or obstruct the Control Officer or any Agency employee in performing any lawful duty.

### **RULE 7.2 FALSE OR MISLEADING STATEMENTS**

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

### **RULE 7.3 UNLAWFUL REPRODUCTION OR ALTERATION OF DOCUMENTS**

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

### **RULE 7.4 DISPLAY OF ORDERS AND CERTIFICATES: REMOVAL OR MUTILATION PROHIBITED**

- (a) Any order or registration certificate required to be obtained by these Regulations shall be available on the premises designated on the order or certificate.
- (b) In the event that the Agency requires order or registration certificate to be displayed, it shall be posted.
- (c) No person shall mutilate, obstruct or remove any order or registration certificate unless authorized to do so by the Board or the Control Officer.

### **RULE 7.5 EMISSION OF AIR CONTAMINANT – CONCEALMENT AND MASKING (WAC 173-400-040)**

- (a) No person shall cause or allow the installation or use of any device or use of any means, which conceals or masks an emission of air contaminant, which would otherwise violate any provisions of ORCAA's Regulations or chapter 173-400 WAC.
- (b) No person shall cause or allow the installation or use of any device or use of any means designed to conceal or mask the emission of an air contaminant, which causes detriment to health, safety, or welfare of any person, or cause damage to property or business.

### **RULE 7.6 EMISSIONS OF AIR CONTAMINANT OR WATER VAPOR: DETRIMENT TO PERSONS AND/OR PROPERTY**

No person shall cause or allow the emission of an air contaminant or water vapor, including an air contaminant whose emission is not otherwise prohibited by these Regulations, if the air contaminant or water vapor causes detriment to the health, safety, or welfare of any person, or causes damage to property or business.



## REGULATION 8 – PERFORMANCE STANDARDS

### RULE 8.1 WOOD HEATING

The provisions of this rule apply to solid fuel burning devices in all areas within the jurisdiction of Olympic Region Clean Air Agency (ORCAA).

#### **Rule 8.1.1 Definitions**

**“Adequate Source of Heat”** means a furnace or heating system, connected or disconnected from its energy source, designed with the ability to maintain seventy degrees Fahrenheit (70°F) at a point three (3) feet above the floor in all normally inhabited areas of a dwelling. Garages are specifically excluded.

**“Certified”** means that a woodstove meets emission performance standards when tested by an accredited independent laboratory and labeled according to procedures specified by EPA in 40 CFR Part 60 Subpart AAA-Standards of Performance for Residential Wood Heaters as amended through July 1, 1990.

**“Cook Stove”** means an appliance designed with the primary function of cooking food and containing an integrally built-in oven, with an internal temperature indicator and oven rack, around which the fire is vented, as well as a shaker grate ash pan, and an ash cleanout below the firebox. Any device with a fan or heat channels used to dissipate heat into the room shall not be considered a cook stove.

**“Fireplace”** means a permanently installed masonry fireplace; or a factory-built metal solid fuel burning device designed to be used with an open combustion chamber and without features to control the air to fuel ratio.

**“First Stage of Impaired Air Quality”** means the same as Stage 1 burn ban and is declared when meteorological conditions are predicted to cause fine particulate levels to exceed 35 micrograms per cubic meter measured on a 24 hour average, within 48 hours.

**“Second Stage of Impaired Air Quality”** means the same as Stage 2 burn ban and is declared when a first stage of impaired air quality has been in force and has not been sufficient to reduce the increasing fine particulate pollution trend (RCW 70.94.473). A second stage burn ban may be called without calling a first stage burn ban only when all of the following occur (RCW 70.94.473(c)(ii)):

- (a) Fine particulate levels have reached or exceeded 25 micrograms per cubic meter, measured on a 24 hour average;
- (b) Meteorological conditions have caused fine particulate levels to rise rapidly;
- (c) Meteorological conditions are predicted to cause fine particulate levels to exceed the 35 micrograms per cubic meter, measured on a 24 hour average, within 24 hours; and,
- (d) Meteorological conditions are highly likely to prevent sufficient dispersion of fine particulate.

**“Nonaffected Pellet Stove”** means that a pellet stove has an air-to-fuel ratio equal to or greater than 35.0 when tested by an accredited laboratory in accordance with methods and procedures specified by the EPA in 40 CFR Part 60 Appendix A, Reference Method 28A- Measurement of Air to Fuel Ratio and minimum achievable burn rates for wood fired appliances as amended through July 1, 1990.

**“Salt Laden Wood”** means any species of wood that has been soaked in salt water.

**“Seasoned Wood”** means clean, untreated wood of any species that has been sufficiently dried so as to contain twenty percent (20%) or less moisture by weight.

**“Solid Fuel Burning Device”** means a device that burns seasoned wood, coal, or any other nongaseous or nonliquid fuels except those prohibited by Rule 8.1.3. This also includes devices used for aesthetic or a space heating purpose, which has a heat input less than one million British thermal units per hour. A cook stove is specifically excluded from this definition.

**“Treated Wood”** mean wood of any species that has been chemically impregnated, painted, or similarly modified to improve structural qualities or resistance to weathering or deterioration.

**“Woodstove”** means an enclosed solid fuel burning device capable of and intended for space heating and/or domestic water heating.

### ***Rule 8.1.2 General Emission Standards***

- (a) No person shall cause or allow an emission from a solid fuel burning device that unreasonably interferes with the use and enjoyment of property or workplace.
- (b) No person shall cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of twenty percent (20%) opacity as determined by EPA Method 9. The provision of this requirement shall not apply during the starting of a new fire for a period not to exceed 20 minutes in any 4 hour period.
- (c) Smoke visible from a chimney, flue, or exhaust duct, in excess of the opacity standard shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that the smoke was not caused by an applicable solid fuel burning device.

### ***Rule 8.1.3 Prohibited Fuel Types***

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

- (a) Garbage;
- (b) Treated wood;
- (c) Plastic products;
- (d) Rubber products;
- (e) Animals;



- (f) Asphalt products;
- (g) Petroleum products;
- (h) Paints and chemicals;
- (i) Salt laden wood; or
- (j) Any substance that normally emits dense smoke or obnoxious odors.

**Rule 8.1.4 Curtailment**

- (a) Whenever the Agency has declared a Stage 1 burn ban for a geographic area, a person within that geographic area with an adequate source of heat other than a solid fuel burning device shall not operate any solid fuel burning device, unless the solid fuel burning device is one of the following:
  - (1) Certified; or
  - (2) A nonaffected pellet stove.
- (b) Whenever the Agency has declared a Stage 2 burn ban for a geographic area, a person within that geographical area with an adequate source of heat other than a solid fuel burning device shall not operate any solid fuel burning device.
- (c) The affected geographic area of a declared Impaired Air Quality shall be determined by the Executive Director or their designee.
- (d) A person responsible for an applicable solid fuel burning device already in operation at the time Impaired Air Quality is declared shall withhold new solid fuel for the duration of the Impaired Air Quality. Smoke visible from a chimney, flue, or exhaust duct after three hours has elapsed from the declaration of the Impaired Air Quality shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that the smoke was not caused by a solid fuel burning device.
- (e) For the sole purpose of a contingency measure to meet the requirements of Section 172(c)(9) of the Federal Clean Air Act, the use of solid fuel burning devices, except fireplaces as defined in RCW 70.94.453(3), woodstoves meeting the standards set forth in RCW 70.94.457 or pellet stoves either certified or issued an exemption by the EPA in accordance with Title 40, Part 60 of the Code of Federal Regulations will be prohibited if the EPA, in consultation with Ecology and the Agency, makes written findings that:
  - (1) The area has failed to make reasonable further progress or attain or maintain a national ambient air quality standard; and,
  - (2) Emissions from solid fuel burning devices from a particular geographic area are a contributing factor to such failure to make reasonable further progress or attain or maintain a national ambient air quality standard.
  - (3) A prohibition issued under 8.1.4(e) shall not apply to a person that does not have an adequate source of heat without burning wood.
  - (4) The area is to consist of all areas within the city limits of Lacey, Olympia, and Tumwater and unincorporated areas of Thurston County lying within or between the municipal boundaries.

### ***Rule 8.1.5 Exemptions***

Written exemptions granted by the Agency shall be valid for one (1) year from date of issue. Exemptions may be canceled at any time if the original request is found to be incorrect, inaccurate or fraudulent. Exemptions shall apply only to the use of solid fuel burning device during an Impaired Air Quality and not to the other rules of this regulation or other applicable regulations.

- (a) Emergency exemption. In an emergency situation the Agency may issue a written solid fuel burning device emergency exemption. An emergency situation shall include, but is not limited to, a situation where a person demonstrates that their heating system, other than a solid fuel heating device, is inoperable for reasons other than their own actions or a situation where the heating system has been involuntarily disconnected by a utility company or other fuel supplier.
- (b) Inadequate heat source. Written exemptions may be issued by the Agency if a person can demonstrate that:
  - (1) The structure was originally designed with a solid fuel burning device as the source of heat; or
  - (2) The existing heat source, fueled with other than solid fuel, will not provide adequate heat.

### ***Rule 8.1.6 Penalties***

A person in violation of this Rule 8.1 may be subject to the provisions of Rule 2.5.

### ***Rule 8.1.7 Sale and Installation of Uncertified Woodstoves***

It shall be unlawful to install, sell, offer for sale, advertise for sale, or otherwise transfer an uncertified solid fuel burning device unless the device has been rendered permanently inoperable as a combustion device.

### ***Rule 8.1.8 Disposal of Uncertified Woodstoves***

At such time as an uncertified solid fuel burning device is to be permanently removed from its location it shall be rendered inoperable as a solid fuel burning device. A removed uncertified solid fuel burning device shall not be sold, bartered, traded, or given away for a purpose other than recycling of the materials to form something other than an uncertified solid fuel burning device.

## **RULE 8.2 GENERAL STANDARDS FOR MAXIMUM VISUAL EMISSIONS** (see WAC 173-400-040)

All facilities, sources and emissions units are required to meet the visual emission standards of this rule except when a visual emission standard is listed in another rule of these Regulations, or where a Notice of Construction lists a more stringent visual emission standard, or where an applicable State of Washington or Federal Regulation lists a visual emission standard that is more stringent, such standards will take precedent over a general emission standard listed in this rule.

- (a) In equipment or facilities, including boilers using hogged fuel, regardless of their date of installation, no person shall cause or allow the emission to the outdoor atmosphere, for more than three (3) minutes in any one hour, of a gas stream containing air contaminants that are greater than 20% opacity.
- (b) Observations shall be made by trained and certified observers or by LIDAR instrumentation.
- (c) The exceptions to Rule 8.2 are as follows:
  - (1) Emission occurring due to soot blowing or grate cleaning may be greater than 20% opacity; providing the operator can demonstrate that soot blowing or grate cleaning will not exceed a total of 15 minutes in any 8 consecutive hours. This practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and ORCAA shall be advised of the schedule
  - (2) 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 20%.

**RULE 8.3 GENERAL STANDARDS FOR MAXIMUM PARTICULATE MATTER**  
(see WAC 173-400-040, -050, -060, and -070)

All sources and emission units are required to meet the emission standards of this rule, except when a standard is listed in another rule of these Regulations, or where a Notice of Construction Approval Order lists a more stringent standard, or where an applicable State of Washington or Federal Regulation lists a standard that is more stringent, such standards will take precedent over a general emission standard listed in this rule. Further, all existing emission 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 ORCAA Regulations. When current controls are determined to be less than RACT, ORCAA shall, on a case-by-case basis, define RACT for each source or source category and issue a regulatory order to the source or source category for installation of RACT. Particulate test procedures, on file at the Authority, will be used to determine compliance. The Authority includes the Method 5 back-half condensable particulate matter, for determining compliance with particulate matter standards.

- (a) In equipment or facilities except boilers using hog fuel, no person shall cause or allow the emission of particulate matter to the outdoor atmosphere from any single source in excess of 0.10 grains per standard cubic foot of gas (calculated at 7% oxygen). Particulate test procedures, on file at the Authority, will be used to determine compliance. The Authority includes the Method 5 back-half condensable particulate matter for determining compliance with particulate matter standards.
- (b) Hogged Fuel Boilers: No person shall cause or allow the emission of particulate matter to the outdoor atmosphere from any single source in excess of 0.20 grains per standard cubic foot of gas (calculated at 7% oxygen). Particulate test procedures, on file at the Authority, will be used to determine compliance. The Authority includes the Method 5 back-half condensable particulate matter for determining compliance with particulate matter standards.

- (c) Fugitive particulate material. Reasonable and/or appropriate precautions shall be taken to prevent fugitive particulate material from becoming airborne;
  - (1) When handling, loading, unloading, transporting, or storing particulate material; or,
  - (2) When constructing, altering, repairing or demolishing a building; or its appurtenance; or a road; or,
  - (3) From an untreated open area.

For the purpose of this rule, fugitive particulate means particulate material which is generated incidental to an operation, process or procedure and is emitted into the open air from points other than an opening designed for emissions such as stacks or vents.

- (d) No person shall cause or allow any construction, alteration, repair, maintenance or demolition work without taking precautions to prevent air pollution.
- (e) 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 which interferes unreasonably with the use and enjoyment of the property upon which the material is deposited.

#### **RULE 8.4 INCINERATION OPERATION**

- (a) No person shall cause or allow any incineration operation within the Authority's jurisdiction except in an incinerator provided with emission control apparatus found by the Control Officer, or a duly designated agent, in advance of such use, to be effective for the purpose of air pollution control.
- (b) Incinerator Hours. No person shall cause or allow an incineration operation at any time other than daylight hours of the same day, except with approval of the Control Officer.

#### **RULE 8.5 ODOR CONTROL MEASURES**

- (a) Reasonably available control technology (RACT) shall be installed and operated to mitigate odor-bearing gases emitted into the atmosphere to a minimum, or, so as not to create air pollution.
- (b) The Board may establish requirements that the building or equipment be enclosed and ventilated in such a way that all the air, gases and particulate matter are effectively treated for removal or destruction of odorous matter or other air contaminants before emission to the outdoor atmosphere.
- (c) No person shall cause or allow the emission or generation of any odor from any source, which unreasonably interferes with another person's use, and enjoyment of their property.

#### **RULE 8.6 EMISSION OF TOXIC AIR POLLUTANTS**

- (a) Sources installed after June 18, 1991, shall meet the requirements of chapter 173-460 WAC, New Sources of Toxic Air Pollutants. For sources installed after June 18, 1991, "Toxic Air Pollutant (TAP)" means any Class A or Class B toxic

air pollutant listed in WAC 173-460-150 and/ or WAC 173-460-160. The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150 and/or WAC 173-460-160. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.

- (b) No person shall cause or allow the emission of formaldehyde into the ambient air beyond such person's property line, which will result in a concentration exceeding .05 ppm (parts per million) 1 hour average or 61 micrograms per cubic meter 1 hour average.

#### **RULE 8.7 REPORTING OF EXCESS EMISSIONS**

- (a) Excess emission shall be reported to the Authority as soon as possible and within 24 hours unless the Authority has established alternative reporting timeline requirements for the source. Upon request by the Control Officer, 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 preventative measures to be taken to minimize or eliminate the chance of recurrence.
- (b) The owner or operator of a source shall have the burden of proving to the Authority that excess emissions were unavoidable.
- (c) The following scenarios of excess emissions shall be considered unavoidable:
  - (1) Excess emissions due to startup or shutdown conditions shall be considered unavoidable provided the source reports as required under Rule 8.7(a) and adequately demonstrates to the Control Officer 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.
  - (2) Excess emissions due to scheduled maintenance shall be considered unavoidable if the source reports as required under Rule 8.7(a) and could not have been avoided through better design, scheduling for maintenance, or through better operation and maintenance practices.
  - (3) Excess emissions due to upsets shall be considered unavoidable provided the source reports, as required under Rule 8.7(a), and demonstrates to the satisfaction of the Authority that:
    - (i) The event was not caused by poor or inadequate design, operation, maintenance, or any other reasonably preventable condition;
    - (ii) The event was not of a recurring pattern indicative of inadequate design, operation or maintenance; and
    - (iii) The operator took immediate and appropriate corrective action in a manner consistent with good air pollution control practice for minimizing emissions during and after the event, 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.

## **RULE 8.8 CONTROL EQUIPMENT – MAINTENANCE AND REPAIR**

All air contaminant sources are required to keep any process and/or air pollution control equipment in good operating condition and repair.

## **RULE 8.9 BURNING USED OIL IN LAND BASED FACILITIES**

(RCW 70.94.610)

- (a) Except as provided in Rule 8.9(b), a person may not burn used oil as fuel in a land-based facility or in state waters unless the used oil meets the following standards:
  - (1) Cadmium – 2 ppm maximum
  - (2) Chromium – 10 ppm maximum
  - (3) Lead – 100 ppm maximum
  - (4) Arsenic – 5 ppm maximum
  - (5) Total Halogens – 1000 ppm maximum
  - (6) Polychlorinated Biphenyls – 2 ppm maximum
  - (7) Ash - .1 percent maximum (0.1%)
  - (8) Sulfur – 1.0 percent maximum (1%)
  - (9) Flash point – 100 degrees Fahrenheit minimum (100EF)
  
- (b) This rule shall not apply to:
  - (1) Used oil burned in space heaters if the space heater has a maximum heat output of not greater than 0.5 million btu's per hour or used oil burned in facilities permitted by the Authority; or
  - (2) Ocean going vessels.
  
- (c) This rule shall not apply to persons in the business of collecting used oil from residences when under authorization by a city, county, or the utilities and transportation commission.

Test procedures for determining compliance for the above specifications shall be approved by the Authority.

## **RULE 8.10 FLUORIDES**

- (a) The following standards shall apply to forage:
  - (1) After sampling on a monthly basis, the yearly average fluoride content of the forage should not exceed 40 ppm Fluoride ion (ppm F), on a dry weight basis, or exceed 60 ppm F for more than two (2) consecutive months or exceed 80 ppm F for more than one (1) month.
  - (2) In areas where cattle are not grazed continually but are fed cured forage, as hay, for part of the year, the fluoride content of this hay shall be used as it is fed to establish the yearly average. Computation of the yearly average, shall take into consideration, periods when cattle may have been grazed outside the area.

- (3) Inasmuch as the standards set forth in paragraph (1) are intended to protect livestock, all forage samples analyzed to determine compliance with such standards shall be representative of forage actually consumed by livestock in the area. Also, in determining compliance in particular cases, consideration shall be given to the supplemental feed of the livestock involved.

- (b) The following standards shall apply to the outdoor atmosphere:

**Table 8.10a Maximum Allowable Fluoride**

Maximum Allowable Fluoride* Ground-level Concentrations	
Concentration**	Averaging Time
4.5 ppb	12 consecutive hours
3.5 ppb	24 consecutive hours
2.0 ppb	1 calendar year
1.0 ppb	1 calendar month
* as gaseous fluorides calculated as HF	
** parts per billion by volume	

Inasmuch as the standards set forth in Table 8.10 are intended to protect vegetation, the outdoor atmosphere analyzed to determine compliance with such standards shall be that existing in the area of the vegetation to be protected.

- (c) Forage or air quality levels higher than those specified in paragraph (1) and Table 8.10 shall be permitted to exist in an area where justified by local conditions and where such higher levels do not or will not be expected to result in significant adverse effects. Similarly, levels lower than those specified in paragraph (1) and Table 8.10 shall be maintained in particular cases where significant adverse effects have occurred or can be expected to occur at the specified levels.

**RULE 8.11 RECORD KEEPING AND REPORTING**

The purpose of this rule is to require owners or operators of stationary sources of air contaminants to maintain records of, and periodically report to the Olympic Region Clean Air Agency information on the nature and amounts of emissions and other information as may be necessary to determine whether such sources are in compliance with applicable emission limitations and other control measures.

This rule also provides for public availability of emission data reported to the Olympic Region Clean Air Agency by stationary source owners or operators or otherwise obtained by the Authority, as correlated with applicable emission limitations.

- (a) The owner or operator of any stationary source in the geographical area of the Authority shall, upon notification by the Control Officer of the Olympic Region Clean Air Agency, maintain records of the nature and amounts of emissions from such source an/or provide other information deemed necessary by the Control

Officer to determine whether such source is in compliance with the applicable emission limitations and other control measures.

- (b) The information pursuant to Rule 8.11(a) hereof shall be reported to the Control Officer on forms supplied by the Olympic Region Clean Air Agency. Such reports shall be filed at such times as the Control Officer shall direct.

## **RULE 8.12 GASOLINE STATIONS - APPLICABILITY**

This regulation shall apply to all facilities that distribute gasoline, including automotive, aviation, and marine uses.

### ***Rule 8.12.1 Definitions***

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

**“Bottom Loading”** means the filling of a tank through a line entering the bottom of the tank.

**“Bulk Gasoline Plant”** means a gasoline storage and transfer facility that receives more than ninety percent of its annual gasoline throughput by transport tank and reloads gasoline into transport tanks.

**“Gasoline”** means a petroleum distillate, which is a liquid at standard conditions and has a true vapor pressure greater than four pounds per square inch absolute at twenty degrees Celsius, and is used as a fuel for internal combustion engines. Also any liquid sold as a vehicle fuel with a true vapor pressure greater than four pounds per square inch absolute at twenty degrees Celsius shall be considered ‘gasoline’ for purpose of this regulation.

**“Gasoline Dispensing Facility”** means any site dispensing gasoline into motor vehicle fuel tanks from stationary storage tanks.

**“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.

**“Motor Vehicle”** means any mode of travel utilizing gasoline as energy to provide locomotion.

**“New Gasoline Dispensing Facility”** means the construction of a gasoline dispensing facility on a site that has not had an active gasoline dispensing facility within the past five years.

**“Stage I”** means gasoline vapor recovery during all gasoline marketing transfer operations except motor vehicle refueling.

**“Stage II”** means gasoline vapor recovery during motor vehicle refueling operations from stationary tanks.



**“Submerged Fill Line”** means any discharge pipe or nozzle which meet either of the following conditions:

- (a) Where the tank is filled from the top, the end of the discharge pipe or nozzle must be totally submerged when the liquid level is six inches from the bottom of the tank, or:
- (b) Where the tank is filled from the side, the discharge pipe or nozzle must be totally submerged when the liquid level is six inches from the bottom of the tank.

**“Throughput”** means the amount of material passing through a facility.

**“Transport Tank”** means a container used for shipping gasoline over roadways.

**“True Vapor Pressure”** means the equilibrium partial pressure of petroleum liquid as determined by methods described in American Petroleum Institute Bulletin 2517, 1980.

**“Upgrade”** means the modification of a gasoline storage tank or piping to add cathodic protection, tank lining or spill and overfill protection that involved removal of ground or ground cover above a portion of the product piping.

**“Vapor Balance System”** means a system consisting of the transport tank, gasoline vapor transfer lines, storage tank, and all tank vents designed to route displaced gasoline vapors from a tank being filled with liquid gasoline.

**“Vapor Control System”** means a system designed and operated to reduce or limit the emission of gasoline vapors into the ambient air, which is designed according to WAC 173-491.

### ***Rule 8.12.2 General Requirements***

All gasoline storage tanks with a capacity greater than 2,000 gallons shall be equipped with submerged fill lines when upgraded, but no later than December 31, 1998.

### ***Rule 8.12.3 Vapor Recovery Stage I***

Stage I vapor recovery is required for all gasoline dispensing facilities as follows:

- (a) The facilities that have an annual throughput greater than 360,000 gallons of gasoline shall have Stage I vapor recovery by December 31, 1993 or when upgraded, whichever is sooner.
- (b) The facilities that have an annual throughput greater than 100,000, but less than or equal to 360,000 gallons of gasoline shall have Stage I vapor recovery by December 31, 1998 or when upgraded, whichever is sooner.
- (c) Terminals and bulk plants that deliver gasoline to any facility equipped with Stage I vapor recovery shall be equipped with a vapor control system prior to December 31, 1998.
- (d) Terminals and bulk plants with an annual throughput greater than 7,200,000 gallons per year shall be equipped with a vapor control system prior to December 31, 1993.

***Rule 8.12.4 Vapor Recovery Stage II***

- (a) Stage II vapor recovery is required at a gasoline dispensing facility supplying fuel to the general public under the following circumstances:
  - (1) Any facility that dispenses in excess of one million two hundred thousand gallons (1,200,000) of gasoline per year and is located in Thurston County. This requirement will end on December 31, 2002, unless the Department of Ecology determines that Stage II is important to achieving or maintaining the National Ambient Air Quality Standard for Ozone in a nonattainment or maintenance plan county.

***Rule 8.12.5 New Gasoline Dispensing Facilities***

Nothing in Rule 8.12.4 shall preclude the Agency from requiring Stage II vapor recovery if it is determined to be BACT for control of air toxics or for the protection of human health and safety.

**RULE 8.13 DRY CLEANERS**

**RULE 8.14 NSPS**

**RULE 8.15 NESHAPS**

**RULE 8.16 WOOD FIRED BOILERS**

# Olympic Region Clean Air Agency

## DATES OF AMENDMENTS

November 4, 1970 (Article 1 & 9)  
January 4, 1971;  
March 3, 1971 (Articles 3 & 9)  
October 6, 1971 (Article 9)  
October 4, 1972 (Article 9, 10, & 11)  
December 6, 1972 (Article 9)  
March 7, 1973 (Article 3, 9, & 12)  
October 3, 1973 (Article 3, 7, & 9)  
February 6, 1974 (Article 1, 3, 9 & 13)  
August 7, 1974 (Article 7 & 9)  
November 6, 1974 (Article 7)  
December 4, 1974 (Article 9)  
June 4, 1975 (Article 11)  
October 1, 1975 (Article 9)  
August 4, 1976 (Article 14)  
November 9, 1977 (Article 7)  
February 14, 1979 (Article 9, & 11 Repealed)  
September 12, 1979 (Article 10 & 12)  
October 3, 1983 (Article 1, 3 & 9)  
August 8, 1984 (Article 3)  
February 11, 1987 (Article 9)  
May 13, 1987 (Article 7)  
July 8, 1987 (Article 10)  
December 9, 1987 (Article 10)  
March 8, 1988 (Article 3)  
August 8, 1990 (Articles 1, 3, 5, 6 & 14)  
October 9, 1991 (Articles 1, 5, 7, 9 & 12)  
November 18, 1991 (Article 1, 5, 9 & 12)  
January 3, 1992 (Article 9)  
April 8, 1992 (Article 3)  
August 11, 1993 (Article 5 & 6)  
September 8, 1993 (Article 1, 3, 7, 10, 12, 13, 14 & 15)  
October 9, 1996 (Article 15)  
May 10, 1997 (Article 5 & 6)  
September 10, 1998 (Articles 1, 5, 6, 7, 8 & 15)  
October 13, 1999 (Articles 5 & 7)  
January 14, 2002 (Articles 3 & 9)  
May 12, 2002 (Articles 1 & 7)  
October 6, 2003 (Articles 1, 3, 5, 6 & 7)  
August 17, 2006 (re-numeration of entire Regulations)  
February 12, 2007 (Rule 2.5 & 3.4)  
May 17, 2007 (Rule 3.1 & 3.3)  
May 10, 2008 (Rule 3.4)  
September 19, 2008 (Rule 3.5 & 6.3)

May 22, 2010 (Rules 1.4, 1.10, 2.2(Repealed), 6.1.2, 7.7(Repealed), and 8.1)  
March 18, 2011 (Rule 1.4, 6.2 (Repealed/Replaced))  
February 4, 2012 (Rule 6.2.3)  
May 13, 2012 (Rule 1.4, 3.1, and 4.4)