

Q & A

Spokane Regional Clean Air Agency's Proposed Rules for Marijuana Production & Processing



Who is Spokane Regional Clean Air Agency?

Spokane Regional Clean Air Agency implements programs and enforces federal, state and local regulations to reduce air pollution throughout Spokane County. Our authority was established under the 1967 Clean Air Washington Act ([RCW 70.94](#)) and we became fully activated on January 1, 1969. We are governed by a 5-member Board of Directors whose representation is outlined in state law.

Why is Spokane Regional Clean Air Agency proposing these rules?

Producing and processing marijuana releases volatile organic compounds (VOCs) and odors¹ which are air contaminants. The intent of the proposed rules is to protect air quality in Spokane County by requiring that marijuana producers and processors meet standards to minimize the release of air contaminants. This is required of other commercial and industrial operations in Spokane County.

Production and processing marijuana began in Spokane County in 2014. From July 1, 2014 through August 31, 2017, odor complaints filed with Spokane Clean Air more than doubled from the previous three year period. During this period, 322 complaints filed with Spokane Clean Air regarding odor impacts from marijuana operations. There were 69 unique complainant addresses that filed complaints. There were 44 unique odor source locations (addresses) that had at least one odor complaint filed against them.

Spokane Clean Air's Board of Directors determined that an industry-specific program, one not solely based on odor complaints, was needed to address air contaminants and odors from this industry and to create a mechanism to pay for such a program. This is similar to work the agency has done with other operations that are extremely odorous, such as coffee roasting and surface coating.

What is emitted from marijuana production and processing operations?

Producing and processing marijuana releases volatile organic compounds (VOCs) and odors which are air contaminants. To better understand the types of air contaminants emitted, Spokane Clean Air partnered with Washington State University from 2016-2017, to conduct a marijuana air sampling project. Air samples were taken from grow rooms when plants were nearing harvest and in drying rooms that contained recently harvested material. The samples were analyzed to identify and quantify air contaminants. Over 40 organic compounds were identified and quantified in the samples. Many of the compounds are detected by humans at very low concentrations.

How many producers and processors are operating in Spokane County?

¹ Under Washington State law, VOCs and odors constitute both air contaminants and air pollution [RCW 70.94.030(1) and (2)] and are subject to regulation. To protect air quality, a person cannot cause or allow the emissions of any air contaminant in sufficient quantities and of such characteristics and duration as are, or are likely to be: (a) injurious to the health or safety of human, animal, or plant life; (b) injurious or damaging to property; or (c) which unreasonably interferes with enjoyment of life and property [SRCAA Article VI, Section 6.04(C) and RCW 70.94.030(2)]

According to the Washington Liquor Cannabis Board (LCB) as of 10/10/17, there are approximately 18 producers, 22 processors and 120 producer/processors licensed in Spokane County.

Were stakeholders involved in the program development process?

The Board directed staff to engage various stakeholders to learn more about this new industry early in the program development process. SRCAA staff formed a Marijuana Advisory Committee comprised of 15 members representing various stakeholders with diverse perspectives. The committee met six times in 2016 and provided information, insights, opinions and ideas that were shared with the Board during program development. Over the next year, staff developed a draft regulatory program for Board consideration. At the October 5, 2017 SRCAA Board meeting, staff was given direction to proceed with the rulemaking process. The process starts with a public comment period from November 1, 2017, through the close of a public hearing to be held at the Board's December 7, 2017 meeting. Notice of public comment period, proposed rule documents and public hearing date, time and location is on [SRCAA's website](#).

In a nutshell, what are the new rules?

The program establishes requirements to minimize air contaminants from marijuana production and processing operations. In summary, key aspects of the rules:

- Requires all production and most processing operations to register annually with Spokane Clean Air which includes reporting, fees, periodic inspections and compliance assistance. Under the proposed rule, no permits will be required.
- Defines Outdoor Producer, Indoor Producer, Other Producer, and Processor.
- Requires operations to minimize the release of air contaminants but methods of control are not specified to allow for site specific flexibility.
- Specifies that outdoor producers operate only during the regional customary growing season and cannot control environmental conditions other than watering and short-term covering of plants for a portion of each day as needed for frost protection.
- Provides a mechanism for existing Other Producers (defined in the proposed rule as those operations using temporary structures such as hoop houses, greenhouses, etc.) to apply for a production exemption. If granted, they will be required to meet exemption conditions, including no odors at level 2 (odor is distinct and definite; any unpleasant characteristics are recognizable) or higher at the operation's property line or beyond. New and expanding producers/processors will have to meet the indoor or outdoor requirements prior to operating.
- Requires all processing of marijuana to be indoors with controls in place to minimize the release of air contaminants including odors and VOCs.

Will this proposed rule help to decrease odors from marijuana production and processing?

By establishing standards to minimize air contaminants from marijuana production and processing operations, odors should be reduced. Indoor producers must have controls in place to minimize the release of air contaminants. Outdoor producers may only operate during the customary growing season and cannot control environmental conditions (watering and short-term covering of plants for a portion of each day as needed for frost protection is not considered controlling environmental conditions). Other producers who apply and receive an agency-granted exemption will have to meet exemption conditions, including no odors at level 2 (odor is distinct and definite, any unpleasant characteristics are recognizable) or higher at their operation's property line or beyond.

Based on the following excerpt from the Revised Code of Washington (RCW 70.94.030), Who determines “sufficient quantities” of an air contaminant?... *To protect air quality, a person cannot cause or allow the emissions of any air contaminant in sufficient quantities and of such characteristics and duration as are, or are likely to be: (a) injurious to the health or safety of human, animal, or plant life; (b) injurious or damaging to property; or (c) which unreasonably interferes with enjoyment of life and property.”*

Under SRCCA’s odor regulation, [Section 6.04](#), the term “sufficient quantities” is tied to the odor detection scale (Section 6.04.D.1.). The odor scale is only part of the determination; other factors are outlined in Section 6.04.

For most air contaminants, the term “sufficient quantities” is tied to federal, state or local regulations, permit conditions, emissions standards, and/or emission limits.

Why aren’t marijuana producers and processors exempt from regulations under the state’s agricultural exemption?

Whether or not a specific operation meets an agricultural exemption under the various state laws is dependent upon the specific facts of each situation.

Does SRCAA regulate agricultural commodities?

Yes. [Exhibit “R”](#) in Article IV, lists common industry sectors we regulate, including agricultural commodity operations. Some of the regulations we administer are industry-specific, others are general meaning they apply to everyone. For example, odors, dust, and smoke emissions, asbestos, etc apply to everyone.

If adopted, how much time does the industry have to comply?

Existing business that are not meeting the proposed requirements have up to a year from the effective date to come into compliance. New and expanded businesses must meet program expectations before they begin operations. Existing businesses, during the transition year, must continue to meet Spokane Clean Air’s odor regulation, Article VI, Section 6.04. After the transition year, Spokane Clean Air will begin periodic inspections as we do with all of our registered sources. Spokane Clean Air will continue to receive and respond to odor complaints.

How were the proposed fees determined and how do they compare with other industries?

The proposed fees cover costs of administering the marijuana registration program, including initial and annual registration, on-site inspections, and administrative support. As required by law, the fees collected may only be used for this program. Fees are reviewed annually and revised as appropriate.

Proposed Marijuana Fee Ranges

Initial registration: \$525-\$1250

Annual registration: \$528-4748

Non-Marijuana Business fees

Permits: \$2,915-\$4,915

Annual registration: \$347-\$9564

When comparing the proposed marijuana fees to the fees applied to non-marijuana businesses regulated by SRCAA, it’s important to note that most other industries require a permit in addition to annual registration fees. Under the proposed rules, a permit is not required for marijuana producers and processors; instead an initial registration fee is proposed.

Why are the fees different for indoor, outdoor and other producer categories?

The three types of operations have different requirements and therefore the amount of staff time spent on each type of producer will vary. Fees are reviewed annually and revised as appropriate.

What if my business has confidential or proprietary business information?

Spokane Clean Air implements and enforces RCW 70.94.205, confidentiality of records and information.

What are other clean air agencies (CAA) in Washington doing in this arena?

- Puget Sound Clean Air Agency – Air quality permits, annual registration, which includes annual fee, annual reporting, periodic inspections must meet odor regulation and permit conditions.
- Olympic Regional Clean Air Agency – Registration, which includes annual fee, annual reporting, periodic inspections, must meet odor regulation.
- Southwest Clean Air Agency – Mail Best Management Practices to operations generating complaints, rely on odor regulation.
- Northwest Clean Air Agency, Yakima Regional Clean Air Agency, Benton Clean Air Agency – Odor regulation.

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