

# ARTICLE II

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## GENERAL PROVISIONS

**ADOPTED: June 9, 1969**

**REVISED: December 7, 2017**

**EFFECTIVE: January 15, 2018**

### SECTION 2.01 POWERS AND DUTIES OF THE BOARD

- A. Pursuant to, and consistent with, the provisions of the Washington Clean Air Act Chapter 70.94 RCW, the Board shall establish such procedures and take such action as may be required to implement Section 1.01 of this Regulation. The Board may take such action as may be necessary to prevent air pollution, including control and measurement of the emission of any air contaminant from a source. The Board shall appoint a Control Officer, competent in the control of air pollution who shall, with the Board's advice and approval, enforce the provisions of all ordinances, orders, resolutions, rules and regulations of this Authority, pertinent to the control and prevention of air pollution in Spokane County.
- B. The Board shall have the power to hold hearings relating to any aspect of or matter in the administration of this Regulation and in connection therewith; issue subpoenas to compel the attendance of witnesses and production of evidence, administer oaths and take the testimony of any person under oath.
- C. The Board shall have the power to adopt, amend and repeal its own ordinances, resolutions, rules, orders and regulations. Any adoption, amendment, or repeal of the Board's ordinances, resolutions, rules, orders and regulations shall be made after due consideration at a public hearing held in accordance with Chapter 42.30 RCW, and shall have the same force and effect as all other of the Board's ordinances, resolutions, rules, or orders and regulations as soon as adopted by the Board. (See RCW 70.94.141)

### SECTION 2.02 CONTROL OFFICER'S DUTIES AND POWERS

- A. The Control Officer and/or his authorized representatives shall observe and enforce the provisions of the Washington Clean Air Act and all orders, ordinances, resolutions, rules and regulations of the Authority pertaining to the control and prevention of air pollution pursuant to the policies set forth by the Board.

- B. The Control Officer, with the approval of the Board, shall have the authority to appoint and remove such employees as are necessary to the performance of the duties assigned to him and to incur necessary expenses within the limitations of the budget.
- C. The Control Officer shall maintain appropriate records and submit reports as required by the Board, Ecology, and EPA.
- D. The Control Officer may engage, at the Authority's expense, within the limitation of the budget, 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 within the Authority's jurisdiction.
- E. For the purpose of investigating conditions specific to the control, recovery or release of air contaminants into the atmosphere, the Control Officer, Ecology, or their duly authorized representatives shall have the power to enter at reasonable times upon any private or public property, excepting non-multiple unit private dwellings housing two families or less. No person shall refuse entry or access to the Control Officer, Ecology, or their duly authorized representative who requests entry for the purpose of inspection, and who presents appropriate credentials; nor shall any person obstruct, hamper or interfere with any such inspection.
- F. If an authorized employee of the Authority, during the course of an inspection desires to obtain a sample of air contaminant, fuel, process material or other material that affects or may affect the emission of air contaminants, he/she shall notify the owner or lessee of the time and place of obtaining a sample so the owner or lessee has the opportunity to take a similar sample at the same time and place, and the Control Officer or the authorized representative of the Authority shall give a receipt to the owner or lessee for the sample obtained.
- G. The Control Officer shall be empowered by the Board to sign official complaints or issue citations or initiate court suits or use other legal means to enforce the provisions of the Authority's Regulation.
- H. The Control Officer or his/her duly authorized representative may obtain, from the owner or operator of an air contaminant source, information or analyses that discloses the nature, extent, or quantity of air contaminants which are, or may be, discharged by such an air contaminant source, and the control equipment in use on such air contaminant source.
- I. The Control Officer or his/her duly authorized representative may require that safe access and adequate sampling facilities be provided to the Authority by the owner or operator of an air contaminant source that is to be tested.

**SECTION 2.03 CONFIDENTIAL OR PROPRIETARY INFORMATION (SEE RCW 70.94.205)**

The Authority implements and enforces RCW 70.94.205.

**SECTION 2.04 VIOLATIONS (SEE RCW 70.94.211)**

The Authority implements and enforces RCW 70.94.211.

**SECTION 2.05 ORDERS AND HEARINGS (SEE RCW 70.94.221)**

The Authority implements and enforces RCW 70.94.221.

**SECTION 2.06 APPEAL OF BOARD ORDERS**

- A. Any order issued by the board or by the control officer, shall become final unless such order is appealed to the hearings board as provided in chapter 43.21B RCW. This is the exclusive means of appeal of such an order.
- B. The Control Officer may stay the effectiveness of an order during the pendency of such an appeal. At any time during the pendency of such an appeal of such an order to the PCHB, the appellant may apply to the PCHB pursuant to Chapter 43.21B RCW and Chapter 371-08 WAC for a stay of the order or for the removal thereof.
- C. Upon failure to comply with any final order of the Board or Control Officer, the attorney for the Authority, upon request of the Board or Control Officer, may bring an action in the superior court of the county where the violation occurred or the potential violation is about to occur to obtain such relief as necessary.

**SECTION 2.07 (RESERVED)**

**SECTION 2.08 FALSIFICATION OF STATEMENTS OR DOCUMENTS, AND TREATMENT OF DOCUMENTS**

- A. No person shall willfully make a false or misleading statement to the Board or their authorized representative as to any matter within the jurisdiction of the Board.
- B. No person shall reproduce or alter, or cause to be reproduced or altered, any order, registration certificate, or other paper issued by the Authority if the purpose of such reproduction or alteration is to evade or violate any provision of Chapter 70.94 RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto.

- C. Any order or registration certificate required to be obtained by Chapter 70.94 RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto, shall be available for review on the premises designated on the order or certificate.
- D. In the event the Authority requires a notice to be displayed, it shall be posted. No person shall mutilate, obstruct or remove any notice unless authorized to do so by the Authority.
- E. No person shall make any false material statement, representation or certification in any form, in any notice or report required under Chapter 70.94 RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto.
- F. No person shall render inaccurate any monitoring device or method required under Chapter 70.94 RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto.

## **SECTION 2.09 SOURCE TESTS**

- A. Purpose. This Section establishes notification, performance, and reporting requirements for all source tests and combustion tests performed to determine compliance with applicable air quality regulations and/or emission standards.
- B. Applicability. This Section applies to any source test performed on sources established or operated in Spokane County that will be submitted to the Agency for regulatory purposes. Tests performed on gasoline dispensing facilities are exempt from the requirements of this section, unless otherwise required by the Agency.

Combustion tests performed on fuel burning equipment shall meet the requirements of Section 2.09.K.

- C. Definitions. In addition to the definitions given in SRCAA Regulation I, Article I, Section 1.04, and unless a different meaning is clearly required by context, words and phrases used in this Section shall have the following meaning:
  - 1. Combustion test means a test performed on fuel burning equipment, using a combustion analyzer, for purposes of analyzing the combustion products produced by the equipment.
  - 2. Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or improper operation are not malfunctions.

3. Regulated pollutant means any air contaminant regulated under the Federal Clean Air Act, the Washington Clean Air Act, Washington Administrative Code, and/or SRCAA regulations.
  4. Regulatory purposes means to determine compliance with an applicable air quality regulation or emission standard or as otherwise required by the Agency.
  5. Representative operating conditions means the range of combined process, production, and control measure conditions under which the source normally operates or will normally operate (regardless of the frequency of the conditions). Operations during startup, shutdown, and malfunctions do not constitute representative operating conditions.
  6. Source test means any testing performed at a source that measures i) the amount or concentration of a regulated pollutant, pollutants, or surrogates being emitted; ii) the capture efficiency of a capture system; and/or iii) the destruction or removal efficiency of a control device used to reduce emissions. Combustion tests and data accuracy assessments of continuous emission monitoring systems (i.e., relative accuracy tests, cylinder gas audits, etc.) are not considered source tests.
- D. Test Methods. Testing of sources for regulatory purposes shall be performed in accordance with U.S. Environmental Protection Agency (EPA) approved methods as found in 40 CFR Parts 51, 60, 61, and 63, as in effect on the date identified in SRCAA Regulation I, Article II, Section 2.13. Alternative methods may be used, provided the method(s) has been approved by the Agency and/or EPA prior to performing the test.
- E. Test Notifications and Plans. At least 15 calendar days prior to performing the source test, a test notification and plan shall be submitted to the Agency for review and approval. This notification requirement does not relieve the source from any other notification requirements under State or Federal law. Test notifications and plans shall be submitted in writing by either hard copy, facsimile, or e-mail. The 15-day submittal requirement may be waived upon receipt of written Agency approval. The test plan shall include, unless otherwise specified in writing by the Agency, the following information:
1. Facility name, mailing address, and source location;
  2. Facility contact name(s) and telephone number(s);
  3. Source testing company name, company contact name(s), and telephone number;
  4. Source testing schedule and date(s);

5. Source description including a description of the pollution control device and sample locations;
6. Pollutant(s) to be measured;
7. Test methods;
8. Number of test runs and length of each individual test run;
9. A description of what constitutes representative process and control conditions for the source to be tested (i.e., production rate, etc.). This shall include the expected process and control conditions (including production rate) during testing;
10. Applicable process and/or production information to be collected during the source test;
11. Control device operating parameters to be monitored during the source test;
12. Fuel and/or raw material samples (if applicable), type of analysis, how the samples will be collected, and who will collect the samples;
13. Timeline for submittal of the final test report to SRCAA;
14. Any other testing information required by the Agency.

Once approved, the source test plan shall be followed. Changes to approved plans may be implemented upon receipt of Agency approval prior to completion of the source test. Test plan modification requests may be submitted in writing by either hard copy, facsimile, or e-mail. SRCAA may require a new series of tests for test plan modifications submitted after initiation of the tests and prior to completion of the tests.

F. Test Procedures.

1. The source test shall consist of a minimum of three (3) individual runs, unless otherwise required in the test method or written Agency approval is given for an alternative testing scenario prior to performing the source test.
2. The individual pollutant test runs for any source test shall be performed consecutively, with no overlap of any test runs for the same pollutant. Test runs may overlap provided the overlapping test runs are not for testing the same pollutant or are not being performed using the same test

method. Each consecutive test run shall be initiated as soon as practicable after completion of the previous test run, unless Agency approval is given for an alternative testing scenario prior to performing the source test.

3. During each source test, the source to be tested shall be operated as described in the approved source test plan, unless an alternative operating scenario is approved by the Agency prior to performing the source test. Upon acceptance of the source test, the source will be limited to no more than 110% of the average production rate that the source operated during that source test, unless otherwise allowed by regulation or Agency issued Order.

G. Stoppages.

1. A source test may be stopped only because of safety reasons or testing and/or process equipment malfunction. The testing shall be resumed as soon as practicable. A source test may not be stopped solely due to the expected or known failure of one or more test runs to meet applicable standards.
2. The Agency shall be notified of any test stoppage as soon as practicable, but no later than the next working day (i.e., Monday through Friday, excluding legal holidays observed by the Agency).
3. The reason for the test stoppage shall be documented and included in the source test report. All test data collected during a stopped test shall be included in the source test report. The Agency will evaluate the reason for the stoppage and determine if it meets the stoppage provisions in Section 2.09.G.1.

H. Invalidation of Test Results. For any test results that are found or considered to be invalid, due to stoppages, sampling or analysis problems or errors, or other reasons, the invalid data must be included in the test report. The reason that the test results were invalidated shall be documented and included in the test report. The Agency will evaluate the reason for the test results invalidation and determine whether to accept or reject the source test results.

I. Postponements/Rescheduling. A source test shall not be postponed and/or rescheduled without prior Agency notification. Postponement notifications for a scheduled source test shall include the reason(s) for the requested postponement and the date of the rescheduled source test. Postponement and/or rescheduling notifications shall be made by telephone or submitted in writing by either hard copy, facsimile, or e-mail. Within two working days after a telephone notification is made, a written notification must be submitted by either hard copy, facsimile, or e-mail.

J. Test Reports.

1. Reports of all source tests performed under this section shall be submitted to the Agency regardless of the source test results (i.e., failure to meet an emission limit or standard, test stoppage, equipment malfunction, test data invalidation, etc.).
2. Source test reports shall be submitted to the Agency as described in the approved test plan, unless an alternative test report submittal timeline has received written Agency approval.
3. The source test report shall, at a minimum, include the following information:
  - a. Source testing company name, company contact name(s), and phone number;
  - b. Facility name, mailing address, and source location;
  - c. Facility contact name(s) and telephone number(s);
  - d. Description of the source and the sampling locations;
  - e. Date(s) of the source test;
  - f. Summary of results, reported in units and averaging periods consistent with the applicable emission standard;
  - g. Length, in minutes, of each individual test run, including start and end times for each individual test run;
  - h. Description of any test stoppages and re-starts, and the reasons for each test stoppage;
  - i. Description of any deviations from the approved source test plan and the reason for the deviation;
  - j. Description of the test methods and quality assurance procedures employed;
  - k. Operating parameters and production data for the source and control equipment during the test, as specified in the approved test plan under Section 2.09E.10-12;

- l. Company name, contact name, and telephone number of the laboratory processing any samples;
  - m. All field data collected and example calculations;
  - n. Any reasons for considering a test run(s) to be invalid;
  - o. Any reasons for objection of use of a test run(s) for regulatory purposes;
  - p. A statement signed by the responsible official of the testing company certifying the validity of the source test report; and
  - q. Any other information specified and/or required by the Agency in the approved test plan.
- K. Combustion Tests. Unless otherwise required by the Agency, combustion tests performed on fuel burning equipment for regulatory purposes shall meet all of the following requirements:
- 1. The Agency shall be notified at least two working days prior to performing the combustion test, unless an alternative notification timeline is approved the Agency.
  - 2. The fuel burning equipment shall be operated at high fire during the combustion test. The combustion test shall be performed under representative operating conditions for the equipment.
  - 3. The combustion test equipment shall be capable of analyzing for the pollutant to be measured.
  - 4. Immediately prior to the test, the combustion analyzer shall be calibrated using the analyzer manufacturer's recommended calibration procedures. During each combustion test, the following operational parameters shall be measured and recorded:
    - a. Concentration (ppmv) of the measured pollutant in the exhaust gases;
    - b. Exhaust gas temperature;
    - c. Percent oxygen for each pollutant concentration reading; and
    - d. Average load for the fuel burning equipment tested or parametric conditions which correlate to load (e.g. fuel feed rate).

5. A report documenting the results of each combustion test shall be submitted to SRCAA within 30 calendar days of each test, unless an alternative test report submittal timeline has been approved the Agency. The report shall include:
  - a. Calibration report for the combustion analyzer, including the calibration method and type and concentration of each gas used to calibrate the combustion analyzer;
  - b. Summary of the measured pollutant emissions given in ppmv and corrected to 3% oxygen, unless a different correction is required by regulation or Agency issued Order;
  - c. Parameters listed under Section 2.09.K.5 above; and
  - d. Copies of actual data sheets.

## **SECTION 2.10 SEVERABILITY**

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

## **SECTION 2.11 (SEE RCW 70.94.430 (CRIMINAL PENALTIES), 431 (CIVIL PENALTIES), & 435 (ADDITIONAL MEANS FOR ENFORCEMENT))**

The Authority implements and enforces Chapter 70.94.430, 431, & 435 RCW.

## **SECTION 2.12 RESTRAINING ORDERS – INJUNCTIONS (SEE RCW 70.94.425)**

The Authority implements and enforces RCW 70.94.425.

## **SECTION 2.13 FEDERAL REGULATION REFERENCE DATE**

- A. Whenever federal laws or regulations are referenced in this Regulation, the effective date shall be the most recent date of either July 1, 2006, unless otherwise noted or the applicable adoption date listed in:
  1. WAC 173-400-115 for standards presented in 40 CFR Part 60 and Appendices, which is hereby adopted by reference,

2. WAC 173-400-075(1) for standards presented in 40 CFR Part 61 and Appendices, which is hereby adopted by reference, or
3. WAC 173-400-075(6)(a) for standards presented in 40 CFR Part 63 and Appendices, which is hereby adopted by reference.

## **SECTION 2.14 WASHINGTON ADMINISTRATIVE CODES (WACS)**

A. The Authority implements and enforces the following Washington State WACs:

1. Chapter 173-400 WAC - General regulations for air pollution sources
  - a. Except for the following sections;
    - 1) Source Registration
      - (a) WAC 173-400-100 – Source classifications
      - (b) WAC 173-400-102 – Scope of registration and reporting requirements
        - (i) **SRCAA Regulation I, Article IV, replaces the registration requirements in WACs 173-400-100 & 102 for all air pollution sources in Spokane County.**
    - 2) Stationary, portable and temporary source permitting
      - (a) WAC 173-400-035 - Portable and temporary sources,
        - (i) **SRCAA Regulation I, Article V, Sections 5.02.A.9, 5.02.I, and 5.08 replace the permitting requirements in WAC 173-400-035 for all portable and temporary sources in Spokane County.**
      - (b) WAC 173-400-110 - New source review,
        - (i) **SRCAA Regulation I, Article V replaces the permitting requirements in WAC 173-400-110 for all new stationary sources installed or operated in Spokane County.**
    - 3) Fees (SRCAA has its own fee structure).

- (a) WAC 173-400-045 - Control technology fees,
  - (i) **SRCAA Regulation I, Article X, Sections 10.07 replaces the review fees in WAC 173-400-045 for performing a Reasonably Available Control Technology (RACT) determination pursuant to Chapter 173-400-040 WAC and/or RCW 70.94.154 in Spokane County.**
- (b) WAC 173-400-104 - Registration fees,
  - (i) **SRCAA Regulation I, Article X, Sections 10.06 replaces registration fees assessed in WAC 173-400-104 for each air pollution source registered with SRCAA.**
- (c) WAC 173-400-116 - New source review fees,
  - (i) **SRCAA Regulation I, Article X, Sections 10.07 replaces the fees assessed in WAC 173-400-116 to each facility that installs or operates a new air pollution source in Spokane County.**
- 4) Prevention of significant deterioration (PSD) program
  - (a) WAC 173-400-730 Prevention of significant deterioration application processing procedures,
  - (b) WAC 173-400-740 PSD permitting public involvement requirements, and
  - (c) WAC 173-400-750 Revisions to PSD permits.
    - (i) **Ecology administers the Prevention of significant deterioration program (PSD); however, SRCAA enforces it in Spokane County.**
- 2. Chapter 173-401 WAC - Operating Permit Regulation
- 3. Chapter 173-425 WAC - Outdoor burning

4. Chapter 173-430 WAC - Agricultural burning
5. Chapter 173-433 WAC - Solid fuel burning devices
6. Chapter 173-434 WAC - Solid waste incinerator facilities
7. Chapter 173-435 WAC - Emergency episode plan
8. Chapter 173-460 WAC - Controls for new sources of toxic air pollutants
9. Chapter 173-470 WAC - Ambient air quality standards for particulate matter
10. Chapter 173-474 WAC - Ambient air quality standards for sulfur oxides
11. Chapter 173-475 WAC - Ambient air quality standards for carbon monoxide, ozone, and nitrogen dioxide
12. Chapter 173-490 WAC - Emission standards and controls for sources emitting volatile organic compounds (VOC)
13. Chapter 173-491 WAC - Emission standards and controls for sources emitting gasoline vapors

## **SECTION 2.15 INTIMIDATION**

- A. No person shall, directly or indirectly, assault, intimidate, threaten, harass, coerce or unlawfully imprison the Control Officer or the Control Officer's authorized representative. The following definitions apply to this Section:
1. "Assault" includes, but is not limited to, actions constituting assault under RCW 9A.36 *et seq.*
  2. "Intimidate" includes, but is not limited to, actions that discourage, restrain or deter action by inducing fear.
  3. "Threaten" includes, but is not limited to, actions constituting threats under RCW 9A.76.180(3) and 9A.04.110(28).
  4. "Harassment" includes, but is not limited to, actions constituting harassment under RCW 9A.46.020(1).
  5. "Coercion" includes, but is not limited to, actions constituting coercion under RCW 9A.36.070(1).
  6. "Unlawful imprisonment" includes, but is not limited to, restricting a person's movements without consent and without legal authority in manner which interferes substantially with his or her liberty as described in RCW 9A.40.010(6).

- B. For any person found to have violated Section 2.15.A., the Agency may issue a separate Notice of Violation to the full extent authorized by Section 2.02.G and Section 2.11 of this Regulation.
- C. A Notice of Violation under this Section may be issued regardless of a criminal charge or conviction related to the same conduct.
- D. The civil penalty for a violation of this Section shall be \$5,000.00. Requests for mitigation of a Notice of Violation issued under this Section shall be referred to and decided by the Board of Directors.