ARTICLE V

NEW SOURCE REVIEW FOR STATIONARY SOURCES AND PORTABLE SOURCES

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SECTION 5.01 DEFINITIONS (Repealed, 3/4/04, Res. 04-01)

SECTION 5.02 NEW SOURCE REVIEW APPLICABILITY AND WHEN REQUIRED

(A) Purpose. SRCAA Regulation I, Article V contains the new source review requirements for stationary and portable sources in Spokane County.

(B) Applicability. Article V applies to all stationary sources, portable sources and source categories listed in Article IV, Section 4.04, unless specifically exempted Article V, Section 5.02(I).

(C) NOC Required for New or Modified Stationary Sources. A NOC application must be filed by the owner or operator and an Order of Approval issued by the Agency prior to the establishment of any of the following stationary source or source categories:

(1) New stationary sources and source categories subject to the applicability criteria in Article IV, Section 4.04;
(2) Establishment of a new major stationary source as defined in WAC 173-400-710 and 173-400-810;
(3) Modifications to an existing stationary source results in an increase in actual emissions or that requires an increase in either a facility-wide or a unit specific emission limit;
(4) A major modification to an existing major stationary source as defined in WAC 173-400-710 and 173-400-810;
(5) Any stationary source with emissions that exceed the SQER in Chapter 173-460 WAC;
(6) Like-kind replacement of existing emissions unit(s);
(7) Existing stationary source replacement or substantial alteration of control equipment;

(8) A stationary source or emission unit(s) resuming operation after it has been closed per Article IV, Section 4.05;
(9) An existing stationary source that is relocated;
(10) A stationary source that applies for coverage under a GOA issued by the Agency under WAC 173-400-560 in lieu of filing a NOC application under Article V, Section 5.02; or
(11) Any stationary source the Agency determines must file a NOC application and obtain an Order of Approval in order to reduce the potential impact of air emissions on human health and safety, prevent injury to plant, animal life, and property, or which unreasonably interferes with enjoyment of life and property.

(D) PSP Required for New or Modified Portable Sources. A PSP application must be filed by the owner or operator and a Permission to Operate issued by the Agency prior to the establishment of any portable sources subject to the applicability criteria in Article IV, Section 4.04, which locate temporarily at locations in Spokane County, unless specifically exempted in 5.08(D).

(E) Modification Review. New source review of a modification is limited to the emissions unit(s) proposed to be added or modified at an existing stationary source and the air contaminants whose emissions would increase as a result of the modification. Review of a major modification must comply with WAC 173-400-700 through 173-400-750 or 173-400-800 through 173-400-860, as applicable.

(F) AOP Integrated Review. An owner or operator seeking approval to construct or modify an air operating permit source, may elect to integrate review of the air operating permit application or amendment, required under RCW 70A.15.2260, and the NOC application required by Article V. A NOC application designated for integrated review must be processed in accordance with the provisions in Chapter 173-401 WAC.

(G) New Major Stationary Source or Major Modification in Nonattainment Areas. The proposed project is subject to the permitting requirements of WAC 173-400-800 through 173-400-860 if:
(1) It is a new major stationary source or major modification, located in a designated nonattainment area;
(2) The project emits the air pollutant or its precursors for which the area is designated nonattainment; and
(3) The project meets the applicability criteria in WAC 173-400-820.

(H) PSD Permitting with New Major Stationary Source or Major Modification. If the proposed project is a new major stationary source or a major modification that meets the applicability criteria of WAC 173-400-720, the project is subject to the PSD permitting requirements of WAC 173-400-700 through 173-400-750.

(I) Stationary Sources Exempt from Article V.

(1) The following stationary sources are exempt from the requirement to file a NOC application and obtain an Order of Approval, provided that the source has registered with the Agency per Article IV, prior to placing the source in operation:

(a) Motor vehicle or motor vehicle component surface coating operations with PTE emissions less than one hundred (100) lbs/yr and with PTE toxic air pollutant emissions that do not exceed any SQER listed in Chapter 173-460 WAC, and residential hobbyists as defined in Article VI, Section 6.13(C)(23).

(b) General surface coating operations that only use non-spray application methods (e.g., roller coat, brush coat, flow coat, or pre-packaged aerosol can) with PTE emissions above the thresholds listed in Article IV, Section 4.04(A)(3)(pp)2., but below thresholds presented in Sections 4.04(A)(5)(a – d).

(2) Exemption documentation. The owner or operator of any stationary source exempted under Article V must maintain documentation in order to verify the stationary source remains entitled to the exemption status and must present said documentation to an authorized Agency representative upon request. If an owner or operator of any source that is exempt from new source review under Article V as a result of the exemption in Section 5.02(I)(1) exceeds the emission thresholds in those exemptions, the owner or operator must immediately notify the Agency of the exceedance and submit and NOC application and receive an Order of Approval from the Agency.

(3) Compliance with SRCAA Regulation I. An exemption from new source review under Section 5.02(I)(1) is not an exemption from registration under Article IV or any other provision of Regulation I.

SECTION 5.03 NOC AND PSP FEES

(A) Fees. The owner or operator filing a NOC application or PSP application must pay fees according to SRCAA Regulation I, Article X, Sections 10.07 and 10.08.

(B) Fee Payment. Fees must be paid without regard to whether a NOC application or PSP application is approved or denied, or a threshold determination is made.

SECTION 5.04 INFORMATION REQUIRED

(A) NOC and PSP Information. Each NOC application or PSP application must be accompanied by appropriate documentation that provides a detailed description of the stationary source or portable source to enable the Agency to determine that the source or emissions unit will comply with Chapter 70A.15 RCW, the rules and regulations adopted thereunder, and the Agency's regulation(s). Information must

be submitted on Agency prepared and furnished forms. Such information must include:

(1) The new or modified stationary source, portable source, emissions unit, or control equipment;

(2) Any equipment connected to, serving, or served by the new or modified stationary source or portable source;

(3) A plot plan, including the distance to, length, width, and height of; buildings within two hundred (200) feet, or other distance specified by the Agency, from the place where the new or modified stationary source or portable source will be installed;

(4) The proposed means for the prevention or control of the emissions of air contaminants;

(5) Estimated emissions resulting from the proposal and the basis for the estimates, or sufficient information for the Agency to determine the expected emissions;

(6) Any additional information required by the Agency to show that the proposed new or modified stationary source or portable source will meet the applicable air quality requirements of Chapter 70A.15 RCW, the rules and regulations adopted thereunder, and the Agency's regulation(s);

(7) Any additional information required under WAC 173-400-112 or WAC 173-400-113; or WAC 173-400-114; and

(8) The owner or operator must provide documentation that the requirements of Chapter 197-11 WAC, State Environmental Policy have been met. If the Agency is the lead agency for review of an Environmental Checklist (SEPA) or EIS related to the NOC or PSP application being submitted, then the owner or operator filing the SEPA must pay a SEPA review fee according to SRCAA Regulation I, Article X, Section 10.07. This fee must be paid without regard to the final SEPA determination. The cost of publishing any required public notice must be paid by the owner or operator.

(B) Signature. Each NOC or PSP application must be signed by the owner or operator of the new or modified stationary source or portable source.

SECTION 5.05 PUBLIC INVOLVEMENT

(A) Public Notice and Opportunity for Public Comment.

(1) SRCAA Regulation I, Article V, Section 5.05 specifies the requirements for notifying the public about air quality actions and provides opportunities of the public to participate in those actions.

(2) Applicability to Prevention of Significant Deterioration (PSD). This Section does not apply to a NOC designated for integrated review with actions regulated by WAC 173-400-700 through 173-400-750. In such cases, compliance with the public notification of WAC 173-400-740 is required.

(B) Public Notice of Application.

(1) A notice must be published on the Agency's web site announcing the receipt of NOC applications and PSP applications. Notice will be published for a minimum fifteen (15) consecutive days. Duration does not require uninterrupted web site access. Each notice will include the following information:

(a) Notice of the receipt of the application;

(b) The type of proposed action; and

(c) A statement that the public may request a public comment period on the proposed action per Article V, Section 5.05(B)(2).

(2) Requests for a thirty (30) day public comment period concerning applications, orders, proposed projects, or actions must be submitted to the Agency in writing via letter, fax, or electronic means within fifteen (15) days of the posting date on the Agency's web site.

(a) A thirty (30) day public comment period must be provided per Article V, Section 5.05(D) for any application or proposed action that receives such a request.

(b) Any application or proposed action for which a thirty (30) day public comment period is not requested may be processed without further public involvement at the end of the fifteen (15) day comment period referenced in Section 5.05(B)(1).

(3) If state or federal regulations require public notice, the public notice must occur in a manner that complies with Section 5.05 and those sections of the state or federal regulations that are applicable.

(C) Mandatory Public Comment Period. A thirty (30) day public comment period must be provided per Article V, Section 5.05(D) before approving or denying any of the following:

(1) An application, order, or proposed action for which a public comment period is requested in compliance with Section 5.05(B)(2);

(2) An order for a new stationary source or modification of an approved stationary source that increases the annual allowable emissions of the approved source to ten (10) tons or more of any air contaminant, criteria pollutant, or toxic air pollutant;

(3) A NOC or PSP application for a new or modified source if there is an increase in emissions of any air pollutant at a rate above the emission threshold rate (defined in WAC 173-400-030), or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under Chapter 173-460 WAC;

(4) Use of a modified or substituted air quality model, other than a guideline model in Appendix W of 40 CFR Part 51, as part of review under Article V, Sections 5.02 and 5.08, WAC 173-400-112, WAC 173-400-113, or WAC 173-400-117;

(5) An order to determine RACT, other than orders issued under WAC 173-400-114;

(6) An order to establish a compliance schedule or a variance. A variance shall be in accordance with Regulation I, Article III;
(7) An order to demonstrate the creditable 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, for the purposes of establishing an emission limitation;
(8) An order to authorize a bubble, under RCW 70A.15.2240 and WAC 173-400-120;
(9) An action to discount the value of an ERC, issued to a source per WAC 173-400-136;
(10) A regulatory order to establish BART for an existing stationary facility;
(11) A NOC application or regulatory order used to establish a creditable emission reduction;
(12) An order issued under WAC 173-400-091 that establishes limitations on PTE;
(13) An extension of the deadline to begin actual construction of a major stationary source or major modification in a nonattainment area;
(14) The original issuance and the issuance of all revisions to a GOA issued under WAC 173-400-560;
(15) An order issued under WAC 173-400-081(4) or 173-400-082 that establishes an emission limitation that exceeds a standard in the SIP; or
(16) An NOC application or other proposed action for which the Agency determines there is a significant public interest.

(D) Public Comment Period.
(1) After all information required by the Agency has been submitted and applicable preliminary determinations, if any, have been made, a public comment period on actions listed under Section 5.05(C) must be provided for a minimum of thirty (30) days following the date the notice is first published on the Agency web site. If a public hearing is held, the comment period must extend through the hearing date.
(2) Availability for public inspection.
(a) Administrative record. The information submitted by the owner or operator, and any applicable preliminary determinations, including analyses of the effect(s) on air quality, must be available for public inspection in at least one (1) location near the proposed project or on the Agency web site for the duration of the public comment period. Duration does not require uninterrupted web site access.
(b) The Agency must post the following information on their web site for the duration of the public comment period. Duration does not require uninterrupted web site access.
1. Public notice must include the information described in Section 5.05(D)(4);
2. Draft permit, order, or action; and
3. Information on how to access the administrative record.
(3) Publication of comment period notice.

(a) Public notice of all applications, orders, hearings, or actions listed in Article V, Section 5.05(C) must be posted on the Agency's web site for the duration of the public comment period. Duration does not require uninterrupted web site access.
(b) The Agency may supplement Agency web site notification by advertising in a newspaper of general circulation in the area of the proposed action or by other methods appropriate to notify the local community.

(4) Notice for a public comment period must include the following information:
(a) Date the public notice is posted;
(b) The name and address of the owner or operator and the affected facility;
(c) A brief description of the proposal and the type of facility, including a description of the facility's processes subject to the permit;
(d) A description of the air contaminant emissions including the type of pollutants and quantity of emissions that would increase under the proposal;
(e) The location where those documents made available for public inspection may be reviewed;
(f) Start date and end date for the thirty (30) day public comment period;
(g) A statement that a public hearing may be held if the Agency determines within a thirty (30) day period that significant public interest exists;
(h) The name, address, telephone number, and e-mail address of a person at the Agency where interested persons may obtain additional information, including copies of the permit draft, application, relevant supporting materials, compliance plan, permit, monitoring, compliance certification report, and all other materials available to the Agency that are relevant to the permit decision;
(i) For projects subject to special protection requirements for federal Class I areas in WAC 173-400-117, the public notice must explain the Agency's decision; and
(j) Any other information required under state or federal laws or regulations.

(5) The cost of publishing any public notice required by Article V, Section 5.05 must be paid by the owner or operator.

(6) EPA notification. The Agency must send a copy of the notice for all actions subject to a mandatory public comment period to the EPA Region 10 regional administrator.

(7) Consideration of public comment. The Agency must make a final decision after the public comment period has ended and comments timely received have been considered.

(8) Public hearings.
(a) The owner or operator, any interested governmental entity, group, or person may request a public hearing within the thirty (30) day public

comment period. All hearing requests must be submitted to the Agency in writing via letter, fax, or electronic means. A request must indicate the interest of the entity filing it and why a hearing is warranted.

(b) The Agency may hold a public hearing if it determines significant public interest exists. The Agency will determine the location, date, and time of the public hearing. If a public hearing is held, the public comment period will extend through the hearing date and thereafter for such period, if any, as the notice of public hearing may specify.

(c) Notice of public hearings. At least thirty (30) days prior to the public hearing, the Agency must provide notice of the hearing as follows:

1. Post a public hearing notice on the Agency's web site as directed by Section 5.05(D)(4) for the duration of the public comment period. Duration does not require uninterrupted web site access.
2. Distribute by electronic means or postal service the notice of public hearing to any person who submitted written comments on the application or requested a public hearing, and in the case of a permit action, to the owner or operator.
3. The notice must include the date, time, and location of the public hearing.
4. The Agency may supplement Agency web site notification by advertising in a newspaper of general circulation in the area of the proposed action or by other methods appropriate to notify the local community.

(E) Public Involvement for Integrated Review with an Air Operating Permit. Any NOC application designated for integrated review with an application to issue or modify an operating permit must be processed in accordance with the operating permit program procedures and deadlines (Chapter 173-401 WAC), as adopted by reference.

(F) 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 Section (e.g. SEPA).

(G) Information for Public Review. All information must be made available for public inspection at the Agency, including copies of NOC applications, Orders of Approval, regulatory orders, and modifications thereof. Exemptions from this requirement include information protected from disclosure under any applicable law, including, but not limited to, RCW 70A.15.2510 and Regulation I, Article II, Section 2.03.

SECTION 5.06 APPLICATION COMPLETENESS DETERMINATION

(A) Application Complete or Information Required.

(1) Within thirty (30) days of receipt of a NOC or PSP application, the Agency must notify the owner or operator in writing that the application is complete or of any additional information necessary to complete the application. Designating an application complete for purposes of NOC or PSP application processing does not preclude the Agency from requesting or accepting any additional information.

(2) For a project subject to the special protection requirements for Federal Class I areas under WAC 173-400-117(2), a completeness determination includes a determination that the application includes all information required for review of that project under WAC 173-400-117(3). The owner or operator must send a copy of the application and all amendments to the application to EPA and the responsible federal land manager.

(3) For a project subject to the major new source review requirements in WAC 173-400-800 through 860, the completeness determination includes a determination that the application includes all information required for review under those sections.

(B) Fee Payment. As a condition of completeness determination, the Agency requires payment of applicable fees, per SRCAA Regulation I, Article X, Section 10.07.

SECTION 5.07 PROCESSING NOC APPLICATIONS FOR STATIONARY SOURCES

(A) For New or Modified Stationary Sources.

(1) Criteria for approval of a NOC application. An Order of Approval cannot be issued until the requirements of the identified regulations are met as applicable:

(a) WAC 173-400-112 – Requirements for new sources in nonattainment areas – Review for compliance with regulations;

(b) WAC 173-400-113 – New sources in attainment or unclassifiable areas – Review for compliance with regulations;

(c) WAC 173-400-117 – Special protection requirements for federal Class I areas;

(d) Article V, Section 5.05;

(e) WAC 173-400-200 – Creditable stack height and dispersion techniques and WAC 173-400-205 – Adjustment for atmospheric conditions;

(f) WAC 173-400-800 – Major stationary source and major modification in a nonattainment area through WAC 173-400-860 – Public involvement procedures;

(g) Chapter 173-460 WAC – Controls for new sources of toxic air pollutants; and

(h) All fees required under SRCAA Regulation I, Article X, Sections 10.07 and 10.08 have been paid.

(2) Within sixty (60) days of receipt of a complete NOC application, the Agency must either issue a final determination on the application or, when required, initiate public notice and comment procedures under Article V, Section 5.05. The Agency must issue a final determination as promptly as possible after the close of the comment period.

(3) The final determination may include:

(a) An Order of Denial, if the proposal is not in accordance with Chapter 70A.15 RCW, the rules and regulations adopted thereunder, and the Agency's regulation(s); or

(b) An Order of Approval which may provide reasonable conditions necessary to assure compliance with Chapter 70A.15 RCW, the rules and regulations adopted thereunder, and the Agency's regulation(s).

(4) The final determination on a NOC application must be reviewed and signed by a professional engineer prior to issuance.

(5) The Agency must promptly mail a copy of each order, approving, denying, revoking, revising, or suspending an Order of Approval or Permit to Operate to the applicant and to any other party who submitted timely comments on the action. The approval, denial, revocation, revision, or suspension order must include a notice advising the parties of their rights of appeal to the Pollution Control Hearings Board.

(6) If the new source is a major stationary source, or the change is a major modification subject to the requirements of WAC 173-400-800 through 860, the Agency must:

(a) Submit any LAER control equipment determination included in a final Order of Approval to the RACT / BACT / LAER Clearinghouse maintained by the EPA; and

(b) Send a copy of the final Order of Approval, with the LAER control equipment determination, to EPA.

(7) The owner or operator of a stationary source must not begin actual construction until the Agency approves the NOC application and issues an Order of Approval.

(B) Replacement or Substantial Alteration of Control Equipment. An owner or operator proposing to replace or substantially alter the control equipment installed on an existing stationary source or emission unit must file a NOC application with the Agency. A project to replace or substantially alter control technology at an existing stationary source that results in an increase in emissions of any air contaminant is subject to new source review as provided in Section 5.07(A). For any other project to replace or substantially alter control equipment, the requirements of 5.07(B)(1) through (5) apply. Replacement or substantial alteration of control equipment does not include routine maintenance, repair, or similar parts replacement.

(1) Within thirty (30) days of receipt of a complete NOC application, the Agency must issue a final determination. The final determination may include:
   (a) An Order of Approval;
   (b) An Order of Denial; or
   (c) A proposed RACT determination for the project per WAC 173-400-114.

(2) The final determination may:
   (a) Require that the owner or operator employ RACT for the affected emissions unit;
   (b) Prescribe reasonable operation and maintenance conditions for the control equipment; and
   (c) Prescribe other requirements as authorized by Chapter 70A.15 RCW.

(3) The final determination on a NOC application must be reviewed and signed by a professional engineer prior to issuance.

(4) The Agency must promptly mail a copy of each order, approving, denying, revoking, revising, or suspending an Order of Approval or Permission to Operate to the owner or operator, and to any other party who submitted timely comments on the proposed action. The order must include a notice advising the parties of their rights of appeal to the PCHB.

(5) Construction shall not commence until the Agency approves the NOC application and issues an Order of Approval. However, any NOC application, filed under Section 5.07(B), shall be deemed to be approved without conditions, if the Agency takes no action within thirty (30) days of receipt of a complete application.

SECTION 5.08 PORTABLE SOURCES

(A) PSP Required for New or Modified Portable Sources.

(1) A PSP application must be filed by the owner or operator and a Permission to Operate issued by the Agency prior to the establishment of any portable sources listed in Article IV, Section 4.04 stationary sources and source categories subject to registration, which locate temporarily at locations in Spokane County. Exemptions are provided in Section 5.08(D).

(2) Each time that a portable source will relocate to operate at a new location in Spokane County, the owner or operator must submit a PSP application and obtain an approved Permission to Operate issued by the Agency.

(3) The PSP application must be filed at least fifteen (15) calendar days prior to operating at a new location.

(4) Information required in Article V, Section 5.04, must be supplied by the owner or operator to enable the Agency to determine that the operation is in accordance with Chapter 70A.15 RCW, the rules and regulations adopted thereunder, and the Agency's regulation(s).

(5) A PSP application cannot be approved and a Permission to Operate cannot be issued until the criteria given in Section 5.07(A), as applicable, has been met.

(6) Nonroad engines are reviewed under the following:

(a) Except as provided in Article V, Section 5.08(D), nonroad engines are required to submit a PSP application and obtain an approved Permission to Operate if:

1. The nonroad engine is rated at 500 or more bhp; and
2. The nonroad engine operates at the site for thirty (30) or more calendar days in any twelve (12) month period. Nonroad engines anticipated to operate more than thirty (30) days in any twelve (12) month period, but less than one (1) year are subject to the requirements of Article V, Section 5.08. When the nonroad engine operates at the site for more than three hundred sixty-four (364) consecutive days, a NOC application must be filed by the owner or operator and approved by the Agency.

(b) Nonroad engines required to obtain approval of a PSP application per Section 5.08 are reviewed under the following criteria:

1. Emission impacts must comply with NAAQS;
2. Must meet applicable federal standards for nonroad diesel engines (40 CFR Part 89, if applicable);
3. Must use ultra low sulfur fuel (equal to or less than 0.0015% sulfur by weight);
4. Must be properly operated and maintained; and
5. Opacity from each nonroad engine must not exceed 10%, as determined per EPA Method 9.

(B) Permission to Operate.

(1) Permission to Operate may be granted subject to conditions necessary to assure compliance with Chapter 70A.15 RCW, the rules and regulations adopted thereunder, and the Agency's regulation(s). If any conditions listed in Article V, Section 5.05(C) are applicable to the proposal, a public comment period must be held according to Section 5.05(D).

(2) Permission to Operate may be granted for a limited time, but in no case remains effective for more than three hundred sixty-four (364) consecutive days from the Permission to Operate approval date. If operation will exceed three hundred sixty-four (364) days, the owner or operator must submit an NOC application per Section 5.02, and receive an Order of Approval per Section 5.07.

(3) The owner or operator of a portable source must not install or operate the portable source until the Agency approves the PSP application and issues a Permission to Operate.

(4) Portable sources that meet the criteria in Article IV, Section 4.03(A)(3) are exempt from registration.

(C) Permission to Operate Becomes Invalid if:

(1) Construction, installation, or operation does not begin within ninety (90) days of receipt of Permission to Operate, unless a longer time is approved by the Agency;

(2) The operation is removed from the site;

(3) The portable source is operated at a location after three hundred sixty-four (364) days from the Permission to Operate approval date; or

(4) The owner or operator of a portable source establishes a permanent stationary source at that site for which the Permission to Operate was approved.

(D) Portable Sources Exempt from Article V, Section 5.08.

(1) The following portable sources are exempt from the requirement to file a PSP application and obtain a Permission to Operate, prior to placing the portable source in operation.

(a) Portable sources listed in 1. through 4. Below, that emit pollutants below those presented in WAC 173-400-100:

1. Abrasive blasting.
2. Rock drilling operations.
3. Blasting operations.
4. Woodwaste chipping and grinding operations, except for operations that establish a permanent collection, storage, or processing facility at a site or sites for purpose of future processing, must obtain the Agency's approval of a NOC application, prior to establishment of the stationary source.

(b) Soil and groundwater remediation projects that emit pollutants below those presented Article IV, Sections 4.04(A)(5)(a) through (d).

(c) All nonroad engines associated with portable rock crushing operations, portable asphalt production operations, and portable concrete production operations.

(2) Exemption documentation. The owner or operator of any portable source exempted under Section 5.08(D) must maintain documentation in order to verify the portable source remains entitled to the exemption status and must present said documentation to an authorized Agency representative upon request. If an owner or operator of any source that is exempt from new source review under Article V as a result of the exemptions in 5.08(D)(1) exceeds the emission thresholds in those exemptions, the owner or operator must immediately notify the Agency of the exceedance and submit a PSP application and receive a Permission to Operate from the Agency.

(3) Compliance with SRCAA Regulation I. An exemption from new source review under Section 5.08(D) is not an exemption from Regulation I.

(E) Prevention of Significant Deterioration. Except for nonroad engines, a portable source that is considered a major stationary source or major modification within

the meaning of WAC 173-400-113, must also comply with the requirements in WAC 173-400-700 through 750, as applicable. If a portable source is locating in a nonattainment area and if the portable source emits the pollutants or pollutant precursor for which the area is classified as nonattainment, the portable source must acquire a site-specific Order of Approval.

SECTION 5.09 OPERATING REQUIREMENTS FOR ORDER OF APPROVAL AND PERMISSION TO OPERATE

(A) Proper Operation and Maintenance. All equipment, machines, devices, and other contrivances, constituting parts of, or called for in the information submitted per SRCAA Regulation I, Article V, Sections 5.02, 5.04, and 5.08 must be properly operated and be maintained in good working order. The control equipment must be operated at all times that air contaminant emissions may occur, except as otherwise provided in the Order of Approval or Permission to Operate.

(B) Compliance. All conditions of approval established under Article V, Sections 5.07 and 5.08 must be complied with.

(C) Back-up, Stand-by Internal Combustion Engine Operating Requirements. Operating requirements for internal combustion engines used for standby or back-up operations, are established by the Agency as follows:

(1) The hours of operation for expected maintenance and testing purposes must be limited to the maximum allowable that will comply with the requirements of Chapter 173-460 WAC. Maintenance and testing purposes means operating the engine to:

(a) Evaluate the ability of the engine or its supported equipment to perform during an emergency;

(b) Train personnel on emergency activities;

(c) Test an engine that has experienced a breakdown, or failure, or undergone a preventative overhaul during maintenance; or

(d) Exercise the engine if such operation is recommended by the engine or generator manufacturer.

(2) No limit will be placed on the hours of operation of the internal combustion engine for emergency use. Emergency use means providing electrical power or mechanical work during any of the following events or conditions:

(a) The failure or loss of all or part of normal power service to the facility beyond the control of the facility; or

(b) The failure or loss of all or part of a facility's internal power distribution system.

(3) The testing and maintenance hours of operation and the emergency hours of operation for the internal combustion engine must be recorded by the owner or operator and reported to the Agency annually upon request.

SECTION 5.10 CHANGES TO AN ORDER OF APPROVAL OR PERMISSION TO OPERATE

(A) Constructed or Operated Differently than Approved Order. The Agency may revoke, revise, or suspend an Order of Approval, coverage under a GOA, or a Permission to Operate, if the Agency determines the stationary or portable source is not constructed, installed, or operated as described in the application and information request forms.

(B) Transfer of Ownership/Name Change.
- (1) If an existing stationary or portable source with a valid Order of Approval or Permission to Operate is transferred to new ownership or the business changes its name per Article IV, Section 4.02(E), and the source is unchanged by the transfer / name change, then the existing order is transferable to the new ownership / name change, as written.
- (2) An existing Order of Approval is not transferable to a new stationary source that is installed or established at a site where a stationary source was previously located if the business nature of the new source is different from the previous stationary source.

(C) Change in Conditions.
- (1) The owner or operator may request, at any time, a change in conditions of an Order of Approval or Permission to Operate, and the Agency may approve such a request provided the Agency finds the criteria given in Section 5.07(A), as applicable, has been met.
- (2) Requests. Article V does not prescribe the exact form that change of condition requests must take. If the request is submitted in writing, the Agency must act upon the request consistent with the timelines in Article V, Sections 5.06 and 5.07 for an Order of Approval, or if for a Permission to Operate, consistent with Section 5.08.
- (3) Fee payment. The owner or operator requesting changes to an Order of Approval or Permission to Operate per Section 5.10 must pay applicable fees, as established in SRCAA Regulation I, Article X, Section 10.07.

(D) Agency Initiated Changes in Conditions.
- (1) Order of Approval and Permission to Operate revisions may be initiated by the Agency, without fees charged to the owner or operator, provided the owner or operator of the stationary source has complied with all applicable requirements of Chapter 70A.15 RCW, the rules and regulations adopted thereunder, and the Agency's regulation(s), and the Agency determines the Order of Approval or Permission to Operate has:
  - (a) Typographical errors;
  - (b) Conditions listed therein that are technically infeasible;
  - (c) Additional or revised provisions that are needed to ensure compliance with Chapter 70A.15 RCW, the rules and regulation

adopted thereunder by the state or Agency, and federal regulations; or

(d) Inaccurate ownership information, including name, address, phone number, or other minor administrative inaccuracies.

(2) The Agency may not modify, delete, or add conditions to an existing Order of Approval or Permission to Operate under Article V, Section 5.10(D), unless the owner or operator is notified in writing at least thirty (30) days in advance of the effective date of the change. Modified, deleted or added conditions may be appealed in accordance with Chapter 43.21B RCW.

(E) Public Notice of Changes in Conditions. Changes to conditions in an Order of Approval or Permission to Operate are subject to the public involvement provisions of Article V, Section 5.05.

SECTION 5.11 NOTICE OF START-UP OF A STATIONARY SOURCE OR A PORTABLE SOURCE

After obtaining an Agency issued Order of Approval or Permission to Operate, the owner or operator must notify the Agency at least seven (7) days prior to the expected startup date.

SECTION 5.12 WORK DONE WITHOUT AN APPROVAL

(A) Compliance Investigation Fee. The Agency may assess a compliance investigation fee to the owner or operator for operating a stationary source, portable source, or control equipment without an approved Agency Order of Approval, GOA, or Permission to Operate. The compliance investigation fee established in SRCAA Regulation I, Article X, Section 10.07, is in addition to the fees required in Article V, Section 5.03 as a part of the NOC, GOA, or PSP review. The compliance investigation fee applies when:

(1) A stationary source is constructed, installed, modified, or operated prior to receiving an Order of Approval from the Agency or coverage under a GOA;

(2) Control equipment is replaced, installed, or substantially altered on an existing stationary source prior to receiving an Order of Approval from the Agency; or

(3) A portable source is established or startup at a location prior to receiving a Permission to Operate from the Agency.

(B) Compliance with SRCAA Regulation I. Payment of the compliance investigation fee does not relieve any person from the requirement to comply with applicable regulations, nor from any penalties for failure to comply.

SECTION 5.13 ORDER OF APPROVAL CONSTRUCTION TIME LIMITS

(A) Time Limit. An Order of Approval, issued under SRCAA Regulation I, Article V, Section 5.07 becomes invalid if:
   (1) Construction is not commenced within eighteen (18) months after the receipt of the approval;
   (2) Construction is discontinued for a period of eighteen (18) months or more; or
   (3) Construction is not completed within eighteen (18) months of commencement.

(B) Extension. The Agency may grant an extension beyond the eighteen (18) month period, as provided for in Article V, Section 5.13(A), upon a satisfactory showing that an extension is justified. The Agency may approve such a request provided that:
   (1) No new requirements, such as NSPS (40 CFR Part 60), NESHAP (40 CFR Parts 61 and 63), or state and local regulations, have been adopted under Chapter 70A.15 RCW or the FCCA (42 USC 7401 et seq.) which would change the Order of Approval, had it been issued at the time of the extension;
   (2) No control equipment required per WAC 173-400-112, WAC 173-400-113, or WAC 173-400-114; or Article V, have been subsequently identified which would change the Order of Approval, had it been issued at the time of the extension;
   (3) The information presented in the NOC application, associated documents, and the determinations by the Agency during review of the application continue to accurately represent the design, configuration, equipment, and emissions of the proposed stationary source; and
   (4) The applicant certifies that the stationary source will comply with all applicable requirements of Chapter 70A.15 RCW, the rules and regulations adopted thereunder, and the Agency's regulation(s).

(C) Phased Projects. Article V, Section 5.13(A) does not apply to the time period between construction of the approved phases of a phased construction project. Each construction phase must commence construction within eighteen (18) months of the projected and approved commencement date.

SECTION 5.14 APPEALS

Appeals. Decisions and orders of the Agency may be appealed to the PCHB of Washington within thirty (30) calendar days of receipt, as provided in Chapter 43.21B RCW and, where applicable, to the U.S. EPA Environmental Appeals Board.

SECTION 5.15 OBLIGATION TO COMPLY

The absence of an ordinance, resolution, rule or regulation, or the failure to issue an order per SRCAA Regulation I, Article V, does not relieve any person from the obligation to comply with Regulation I or with any other provision of law.