



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: October 15, 2024

TIME: 9:39 AM

WSR 24-21-076

Agency: Southwest Clean Air Agency

☒ Original Notice

☐ Supplemental Notice to WSR \_\_\_\_\_

☐ Continuance of WSR \_\_\_\_\_

☐ Preproposal Statement of Inquiry was filed as WSR \_\_\_\_\_ ; or

☐ Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_ ; or

☐ Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

☒ Proposal is exempt under RCW 70A.15.2040(1).

Title of rule and other identifying information: (describe subject)

SWCAA 400-025 - Adoption of Federal Rules

Existing rule section establishing an adoption by reference date for federal regulations cited in other sections of SWCAA 400.

SWCAA 400-030 - Definitions

Existing rule section containing definitions for words and phrases used throughout SWCAA 400.

SWCAA 400-045 - Permit Application for Nonroad Engines

Existing rule section identifying requirements for nonroad engine permit applications.

SWCAA 400-046 - Application Review Process for Nonroad Engines

Existing rule section identifying requirements for the processing and approval of nonroad engine permit applications.

SWCAA 400-070 - General Requirements for Certain Source Categories

Existing rule section containing minimum air emission standards and work practices for selected source categories.

SWCAA 400-072 - Small Unit Notification for Selected Source Categories

Existing rule section containing air emission standards, work practices, and monitoring/reporting requirements that may be used in lieu of New Source Review for selected small source categories.

SWCAA 400-075 - Emission Standards for Stationary Sources Emitting Hazardous Air Pollutants

Existing rule section adopting by reference federal standards relating to hazardous air pollutant standards contained in 40 CFR Parts 61, 63, and 65.

SWCAA 400-099 - Per Capita Fees

Existing rule section identifying the authority for, method of determination, and amount of the Agency's per capita fee assessment for supplemental income.

SWCAA 400-100 - Registration Requirements

Existing rule section identifying requirements for registration and inspection of air contaminant sources.

SWCAA 400-105 - Records, Monitoring and Reporting

Existing rule section identifying requirements for emission monitoring, emission sampling and reporting, and submission of emission inventories.

SWCAA 400-115 - Standards of Performance for New Sources

Existing rule section adopting by reference federal standards for new sources contained in 40 CFR Part 60.

**SWCAA 400-171 - Public Involvement**

Existing section identifying requirements for public notice of agency actions, and the process by which public involvement is to be administered. This section also identifies those documents that are subject to a formal public notice and those that are not subject to a formal public notice.

**SWCAA 400-200 – Vertical Dispersion Requirement, Creditable Stack Height and Dispersion Techniques**

Existing rule section identifying presumptive requirements for new exhaust stack installations, and describes the procedure by which the maximum creditable stack height is to be determined.

**SWCAA 400, Appendix C - Federal Standards Adopted by Reference.**

Existing rule section containing informational lists of all federal regulations adopted by reference pursuant to SWCAA 400-075 and 400-115.

**Hearing location(s):**

<b>Date:</b>	<b>Time:</b>	<b>Location: (be specific)</b>	<b>Comment:</b>
December 30, 2024	6:00 PM	Virtual online hearing	Contact Agency to register for online hearing.

**Date of intended adoption:** January 2, 2025 (Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: Wess Safford

Address: 5101 NE 82<sup>nd</sup> Ave, Suite 102, Vancouver, WA 98662t

Email: [wess@swcleanair.org](mailto:wess@swcleanair.org)

Fax: (360) 576-0925

Other:

By (date) December 30, 2024

**Assistance for persons with disabilities:**

Contact [Tina Hallock](#)

Phone: (360) 574-3058 x110

Fax: (360) 576-0925

TTY: (360) 574-3058

Email: [tina@swcleanair.org](mailto:tina@swcleanair.org)

Other:

By (date) December 20, 2024

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:****SWCAA 400-025 Adoption of Federal Rules**

The proposed rule changes update the adoption by reference date for federal regulations cited in other sections of SWCAA 400.

**SWCAA 400-030 Definitions**

The proposed rule changes add a definition for "hazardous air pollutant" and revise the definition for "nonroad engine".

**SWCAA 400-045 Permit Application for Nonroad Engines**

The proposed rule changes revise stationary engine exceptions.

**SWCAA 400-046 Application Review Process for Nonroad Engines**

The proposed rule changes remove the 40CFR89 reference in SWCAA 400-046(2)(c) and recordkeeping requirements for engine location in SWCAA 400-046(7).

**SWCAA 400-070 General Requirements for Certain Source Categories**

The proposed rule changes update the federal regulation citation in SWCAA 400-070(6)(c).

**SWCAA 400-072 Emission Standards for Selected Small Source Categories.**

The proposed rule changes revise complaint reporting sections for consistency (business vs calendar days), clarify the definition of heater in SWCAA 400-072(5)(b), add a maximum combined horsepower limit to SWCAA 400-072(5)(c), modify emergency use recordkeeping requirement in SWCAA 400-072(5)(c), remove setback requirement from SWCAA 400-072(5)(d), and make administrative edits.

**SWCAA 400-075 Emission Standards for Stationary Sources Emitting Hazardous Air Pollutants**

The proposed rule changes add a reference to the Administrator of EPA in SWCAA 400-075(5)(b).

**SWCAA 400-099 Per Capita Fees**

The proposed rule changes revise RCW citations from 70.94 to 70A.15.

**SWCAA 400-100 Registration Requirements**

The proposed rule changes clarify the applicability of registration requirements.

**SWCAA 400-105 Records, Monitoring and Reporting**

The proposed rule changes add "hazardous air pollutants" to list of pollutants in SWCAA 400-105(1) and remove the FCAA Section 112 citation.

**SWCAA 400-115 Standards of Performance for New Sources**

The proposed rule changes update the list of NSPS adoption exceptions.

**SWCAA 400-171 Public Involvement**

The proposed rule changes clarify synthetic minor applicability and website publication of public notice.

**SWCAA 400-200 Vertical Dispersion Requirement, Creditable Stack Height and Dispersion Techniques.**

The proposed rule changes revise SWCAA 400-200(1) applicability to exclude domestic hot water units.

**SWCAA 400 Appendix C - FEDERAL STANDARDS ADOPTED BY REFERENCE**

The proposed rule changes update the informational list of adopted federal regulations.

**Reasons supporting proposal:**

The proposed changes are necessary to support the Agency's implementation of the Washington state Clean Air Act and associated federal standards.

**Statutory authority for adoption:** RCW 70A.15.2040(1)

**Statute being implemented:** RCW 70A.15.2040(1)

**Is rule necessary because of a:**

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None

**Name of proponent:** (person or organization) Southwest Clean Air Agency

☐ Private

☐ Public

☒ Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Wess Safford	5101 NE 82 <sup>nd</sup> Ave, Suite 102, Vancouver, WA 98662	(360) 574-3058 x126
Implementation:	Clint Lamoreaux	5101 NE 82 <sup>nd</sup> Ave, Suite 102, Vancouver, WA 98662	(360) 574-3058 x131
Enforcement:	Bryan Smith	5101 NE 82 <sup>nd</sup> Ave, Suite 102, Vancouver, WA 98662	(360) 574-3058 x122

**Is a school district fiscal impact statement required under RCW 28A.305.135?**

☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

☐ Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

☒ No: Please explain: Pursuant to RCW 70A.15.2040(1), Section 201, Chapter 403, Laws of 1995, does not apply to this rule adoption. SWCAA is not voluntarily invoking Section 201, Chapter 403, Laws of 1995 for this action.

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

☐ RCW 34.05.310 (4)(b)  
(Internal government operations)

☐ RCW 34.05.310 (4)(c)  
(Incorporation by reference)

☐ RCW 34.05.310 (4)(d)  
(Correct or clarify language)

☐ RCW 34.05.310 (4)(e)  
(Dictated by statute)

☐ RCW 34.05.310 (4)(f)  
(Set or adjust fees)

☐ RCW 34.05.310 (4)(g)  
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☒ This rule proposal, or portions of the proposal, is exempt under RCW 70A.15.2040(1).

Explanation of exemptions, if necessary: Pursuant to RCW 70A.15.2040(1), air pollution control authorities are authorized to adopt and amend rules and regulations in accordance with Chapter 42.30 RCW and selected portions of Chapter 34.05 RCW. SWCAA is not deemed a state agency and is not required to comply with the provisions of Chapter 19.85 RCW.

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

☐ No Briefly summarize the agency's analysis showing how costs were calculated. \_\_\_\_\_

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

**Date:** October 15, 2024

**Name:** Uri Papish

**Title:** Executive Director

**Signature:**

