



Regulation 1

of the
Benton Clean Air Agency

December 8, 2014

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ARTICLE 1

Policy, Purpose and Applicability

ADOPTED: 17-Feb-2005

AMENDED: 11-Dec-2014

[Statutory Authority: RCW 70.94.205]

Section 1.01 Name of the Agency

The name of this Air Pollution Control Agency is the Benton Clean Air Agency, referred to as the Agency, or the Agency.

Section 1.02 Policy and Purpose

[Statutory Authority: RCW 70.94.011, RCW 70.94.057, and RCW 70.94.141]

- A. The public policy of the Agency under chapter 70.94 RCW is to:
1. Provide for the systematic control of air pollution from air contaminant sources within Benton County and for the proper development of the county's natural resources.
 2. Secure and maintain such levels of air quality that protect human health and safety, including the most sensitive members of the population;
 3. Secure compliance with the requirements of the Federal Clean Air Act;
 4. Prevent injury to plant and animal life and to property;
 5. Foster the comfort and convenience of its inhabitants;
 6. Promote the economic and social development of Benton County; and
 7. Facilitate the enjoyment of the natural attractions of Benton County.
- B. The purpose of [Regulation 1](#) is to establish technically feasible and reasonably attainable standards and to establish rules applicable to the control and/or prevention of the emission of air contaminants.
- C. The intent of Regulation 1 is to protect the public welfare, to preserve visibility, to protect scenic, aesthetic, historic, and cultural values, and to prevent air pollution problems that interfere with the enjoyment of life, property, or natural attractions.
- D. THE AGENCY intends to implement and enforce the state regulations. Wherever Regulation 1 restates the requirements and purposes of chapter 70.94 RCW, it is the intent of the Agency that Regulation 1 be interpreted in the same manner as the enabling statute.

Section 1.03 Applicability

[Statutory Authority: RCW 70.94.141, RCW 70.94.395, and RCW 70.94.422 RCW]

- A. The Agency implements and enforces the Washington Administrative Code State Air Pollution Control rules adopted by Ecology in Title 173 under chapter 70.94 RCW, as in effect now and including all future amendments, except where specific provisions of BCAA Regulation 1 apply.

- B. The provisions of this regulation shall apply within Benton County of Washington State.

- C. The Agency is authorized to enforce this regulation and may also adopt standards or requirements.

- D. The Agency does not have jurisdiction over the following sources:
 - 1. Specific source categories over which the State assumes jurisdiction.
 - 2. Automobiles, trucks, aircraft, chemical pulp mills and primary aluminum reduction facilities.
 - 3. Sources under the jurisdiction of the Energy Facility Site Evaluation Council (EFSEC) through chapter 80.50 RCW.

ARTICLE 2

General Provisions

ADOPTED: 17-Feb-2005

AMENDED: 11-Dec-2014

Section 2.01 Powers and Duties of the Benton Clean Air Agency (BCAA)

[Statutory Authority: RCW 70.94.081, and RCW 70.94.141.]

RCW 70.94.081 deems Benton Clean Air Agency a municipal corporation with the following authorities:

- A. Right to perpetual succession;
- B. Adopt and use a seal;
- C. Sue and be sued in the name of the Agency in all courts and in all proceedings;
- D. Receive, account for, and disburse funds;
- E. Employ personnel; and
- F. Acquire or dispose of any interest in real or personal property within or without the Agency in the furtherance of its purposes.
- G. The Board will have all the powers and duties of Section 2.02 of this Regulation and of an activated air pollution control authority under RCW 70.94.081 and 70.94.141.

Section 2.02 Requirements for Board of Directors Members

[Statutory Authority: RCW 70.94.100]

- A. Public interest.
 - 1. A majority of the members of the Agency's Board of Directors (Board) will represent the public interest.
 - 2. A majority of the members of the Board will not derive a significant portion of their income from persons subject to enforcement orders pursuant to the State and Federal Clean Air Acts.
 - 3. An elected public official and the Board will be presumed to represent the public interest. In the event that a member derives a significant portion of his/her income from persons

subject to enforcement orders, he/she will delegate sole responsibility for administration of any part of the program that involves these persons to an assistant.

- B. Disclosure.
 - 4. Each member of the Board will disclose any potential conflict of interest in any matter prior to any action or consideration before the Board.
 - 5. The member will remove themselves from participation as a Board member in any action, including voting on the matter.
 - 6. The Board will, if the potential conflict of interest, in the judgment of a majority of the Board, may prevent the member from a fair and objective review of the case, remove the member from participation in the action.
- C. **Definition of significant income:** For the purposes of this Section, "significant portion of their income" means twenty percent of gross personal income for a calendar year. In the case of a retired person, "significant portion of income" will mean fifty percent of income in the form of pension or retirement benefits from a single source other than Social Security. Income derived from employment with local or state government will not be considered in the determination of "significant portion of income."

Section 2.03 Powers and Duties of the Board of Directors

- A. Pursuant to the provisions of chapter 70.94 RCW, the Board will:
 - 1. Establish procedures and take action required to implement Regulation 1 consistent with federal, state, and local air pollution laws or regulations;
 - 2. Take action as may be necessary to prevent air pollution including control and measurement of the emission of air contaminant from a source; and
 - 3. Appoint a Control Officer, in accordance with RCW 70.94.170, competent in the control of air pollution who will, with the Board's advice and approval, enforce the provisions of Regulation 1 and all ordinances, orders, resolutions, or rules and regulations of the Agency pertinent to the control and prevention of air pollution in Benton County.
- B. Under RCW 70.94.141, the Board will have the power to:
 - 1. Adopt, amend, and repeal its own rules and regulations, implementing chapter 70.94 RCW and consistent with it, after consideration at a public hearing held in accordance with chapter 42.30 RCW. Rules and regulations will also be adopted in accordance with the notice and adoption procedures set forth in RCW 34.05.320, those provisions of RCW 34.05.325 that are not in conflict with chapter 42.30 RCW, and with the procedures of RCW 34.05.340, 34.05.355 through 34.05.380, and with chapter 34.08 RCW, except that rules will not be published in the Washington Administrative Code. Judicial review of rules adopted by the Agency will be in accordance with Part V of chapter 34.05 RCW;
 - 2. Hold hearings relating to any aspect of or matter in the administration of chapter 70.94 RCW not prohibited by the provisions of Chapter 62, Laws of 1970 ex.sess. and in connection

- therewith issue subpoenas to compel the attendance of witnesses and the production of evidence, administer oaths and take the testimony of any person under oath;
3. Issue such notices, orders, permits, or determinations as may be necessary to effectuate the purposes of federal, state, or local air pollution laws or regulations and enforce the same by all appropriate administrative and judicial proceedings subject to the rights of appeal as provided in Chapter 62, Laws of 1970 ex. sess.;
 4. Require access to records, books, files and other information specific to the control, recovery or release of air contaminants into the atmosphere;
 5. Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise;
 6. Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution within its jurisdiction;
 7. Encourage voluntary cooperation by persons or affected groups to achieve the purposes of federal, state and local air pollution laws or regulations;
 8. Encourage and conduct studies, investigation and research relating to air pollution and its causes, effects, prevention, abatement and control;
 9. Collect and disseminate information and conduct educational and training programs relating to air pollution;
 10. Advise, consult, cooperate and contract with:
 - a. State agencies, departments, and educational institutions;
 - b. Other political subdivisions, other states, interstate or interlocal agencies, and the United States government; and
 - c. Industries, interested persons or groups.
 11. Consult, upon request, with any person proposing to construct, install, or otherwise acquire an air contaminant source or device or system for the control thereof, concerning the efficacy of such device or system, or the air pollution problems which may be related to the source, device or system. Nothing in any such consultation will be construed to relieve any person from compliance with any federal, state, or local law or regulation in force pursuant thereto, or any other provision of law; and
 12. Accept, receive, disburse and administer grants or other funds or gifts from any source, including public and private agencies and the United States government for carrying out any of the functions any federal, state, or local law or regulation.
 13. Exception to powers of the Agency: The Agency may not hold adjudicative proceedings pursuant to the Administrative Procedures Act, chapter 34.05 RCW. Decisions and orders may be appealed to the Pollution Control Hearings Board as provided in WAC 173-400-250.

Section 2.04 Powers and Duties of the Control Officer

[Statutory Authority: RCW 70.94.141, RCW 70.94.170, RCW 70.94.200 RCW]

- A. The Control Officer and duly authorized representatives of the Agency will observe and enforce applicable federal, state, and local air pollution laws and regulations and all orders, ordinances, resolutions, or rules and regulations of the Agency pertaining to the control and prevention of air pollution pursuant to the policies set down by the Board.
- B. The Control Officer, with the approval of the Board, will have the authority to appoint and remove such staff persons as are necessary to the performance of the duties assigned and to incur necessary expenses within the limitations of the budget.
- C. The Control Officer will maintain appropriate records and submit reports as required by the Board, state agencies, and federal agencies.
- D. The Control Officer may engage, at the Agency'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 that are or may be discharged from any source within Benton County.
- E. As authorized under RCW 70.94.200, for the purpose of investigating conditions specific to the control, recovery or release of air contaminants into the atmosphere, the Control Officer and duly authorized representatives of the Agency will have the power to enter, at reasonable times, upon any private or public property, excepting non-multiple unit private dwellings housing two (2) families or less. No person may refuse entry or access to the Control Officer or duly authorized representatives of the Agency who requests entry for the purpose of inspection and who presents appropriate credentials, nor may any person obstruct, hamper or interfere with any such inspection.
- F. If the Control Officer or a duly authorized representative of the Agency 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, the Control Officer or a duly authorized representative will:
 - 1. 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
 - 2. Will give a receipt to the owner or operator for the sample obtained.
- G. The Control Officer will be empowered by the Board to sign official complaints, issue citations, initiate court suits, or use other legal means to enforce the provisions of all ordinances, orders, resolutions, or rules and regulations of the Agency pertinent to the control and prevention of air pollution in Benton County.

Section 2.05 Severability

[Statutory Authority: chapter 43.21B RCW]

The provisions of this regulation are severable. If any provision, meaning phrase, clause, subsection or section, or its application to any person or circumstance is held to be invalid by any court of competent jurisdiction, the application of such provision to other circumstances and the remainder of the regulation to other persons or circumstances will not be affected.

Section 2.06 Confidentiality of Records and Information

[Statutory Authority: RCW 70.94.205]

Whenever any records or other information, other than ambient air quality data or emission data, furnished to or obtained by the Agency, relate to processes or production unique to the owner or operator, or is likely to affect adversely the competitive position of such owner or operator if released to the public or to a competitor, and the owner or operator of such processes or production so certifies, such records or information will be only for the confidential use of the Agency. Nothing herein will be construed to prevent the use of records or information by the Agency in compiling or publishing analyses or summaries relating to the general condition of the outdoor atmosphere: PROVIDED, That such analyses or summaries do not reveal any information otherwise confidential under the provisions of this Section: PROVIDED FURTHER, That emission data furnished to or obtained by the Agency will be correlated with applicable emission limitations and other control measures and will be available for public inspection during normal business hours at offices of the Agency .

ARTICLE 3

Industrial Source Regulations

ADOPTED: 11-Dec-2014

[Statutory Authority RCW 70.94.141]

PURPOSE: This Article establishes controls on incinerator operations and Surface Coating operations in Benton County in order to reduce particulate emissions, reduce public exposure to Toxic Air Pollutants as listed in Chapter 173-460 WAC, and to encourage pollution prevention in Benton County.

Section 3.01 Incinerator Burning and Incineration Hours

- A. The Agency implements and enforces WAC 173-400-050, in Benton County in addition to Parts B through E of this Section. The more stringent requirement in WAC 173-400-050 or Section 3.01 of this Regulation supersedes the lesser.
- B. It shall be unlawful for any person to burn any combustible refuse in any incinerator within the jurisdiction of this Agency except in an approved multiple-chambered incinerator or in equipment found by the Control Officer in advance of such use to be equally effective for the purpose of air pollution control. The Control Officer may require the installation of additional control apparatus on an incinerator of approved design, if he/she finds that it is not effectively controlling air pollution emissions or is the cause of legitimate complaints.
- C. It shall be unlawful for any person to cause or allow the operation of an incinerator at any time other than daylight hours, except with the approval of the Control Officer.
- D. Approval of the Control Officer for the operation of an incinerator at other than daylight hours may be granted upon the submission of a written request stating:
 - 1. Full name and address of the applicant;
 - 2. Location of the incinerator;
 - 3. A description of the incinerator and its control equipment;
 - 4. Good cause for issuance of such approval;
 - 5. The hours, other than daylight hours, during which the applicant seeks to operate the equipment; and
 - 6. The length of time for which the exception is sought.
- E. No one shall install or operate an "Air Curtain Incinerator" or "Wigwam Burner" within the Agency's jurisdiction.

Section 3.02 General Surface Coating

- A. Purpose. This Section establishes controls on surface coating operations in Benton County in order to:
1. Reduce particulate emissions from coating overspray;
 2. Reduce public exposure to Toxic Air Pollutants as listed in Chapter 173-460 WAC;
 3. Reduce emissions of precursors to the formation of tropospheric ozone and other photochemical oxidants; and
 4. Encourage pollution prevention.
- B. Applicability. This Section applies to all surface preparation, surface coating, cleanup, and disposal associated with general surface coating in Benton County, unless specifically exempted.
- C. Definitions. Unless a different meaning is clearly required by context, words and phrases used in this Section have the following meaning:
1. "Airless Spray" means a spraying system that uses hydraulic atomization instead of air atomization. The coating is supplied to the gun under high fluid pressure between 1000 and 3000 psig and the coating is forced through a small orifice.
 2. "Air-Assisted Airless Spray" means a spraying system that combines air and airless features. An airless type fluid tip atomizes the paint and shapes the fan pattern at fluid pressures between 300 and 1000 psig. Lower pressure air from 10 to 30 psig combines at the spray cap to adjust the fan shape to eliminate heavy edges (tails).
 3. "Automated" means the technique, method, or system of operating or controlling a process by mechanical, electrical, hydraulic, or electronic means independent of human intervention.
 4. "Brush Coat Application" means manual application of coatings by use of a paint brush.
 5. "Coating" means a material or formulation of materials that is applied to or impregnated into a surface in order to beautify, protect, enhance the function, or otherwise cover the surface.
 6. "Container" means the individual receptacle that holds a coating or coating component for storage and distribution.
 7. "Dip Coat Application" means application of coatings in which the surface to be coated is immersed in a solution (or dispersion) containing the coating material and withdrawn.
 8. "Electrostatic Application" means application of coatings where an electrostatic potential is created between the part to be coated and the paint particles.
 9. "Exempt Solvent" means a solvent or solvent component, which is not a volatile organic compound (VOC).

10. "Flow Coat Application" means application of coatings by flowing the coating over the surface to be coated and draining the excess coating to a collection system.
11. "High Volume, Low Pressure (HVLP) or Low Volume, Low Pressure (LVLP) coating system" means equipment used to apply coatings by means of a spray gun which operates between 0.1 and 10.0 pounds per square inch gauge air pressure measured at the nozzle and that exhibits a minimum transfer efficiency of 65%, as applied.
12. "Light Duty Vehicle" means a passenger car, truck, van, or other motor vehicle which has a gross vehicle weight of 8500 pounds or less, or components thereof.
13. "Multi-Coat System" means a coating system where more than one product or coat is sequentially applied to the same surface and generally consists of a pigmented base coat, one or more semi-transparent mid-coats, and a transparent clear coat. The VOC content for a multi-coat system are calculated as follows:

$$VOC_{TM} = \frac{VOC_{BC} + VOC_{X1} + VOC_{X2} + \dots + VOC_{Xn} + 2VOC_{CC}}{n+3}$$

where:

VOC_{TM} is the average sum of the VOC content, as applied to the surface, in a multi-coat system; and

VOC_{BC} is the VOC content, as applied to the surface, of the base coat; and

VOC_X is the VOC content, as applied to the surface, of each sequentially applied mid-coat; and

VOC_{CC} is the VOC content, as applied to the surface, of the clear coat (Two coats are applied); and

n is the total number of coats applied to the primer coat(s) surface.

14. "Pre-packaged Aerosol Can Application" means application of coatings from cans which are sold by the coating supplier as non-reusable, hand-held pressurized containers. The coating is expelled as a finely divided spray when a valve on the container is depressed.
15. "Primer" means any coating that is applied to a surface to enhance corrosion resistance, protection from the environment, functional fluid resistance, and adhesion of subsequently applied coatings.
16. "Reducer" means any solvent added to a coating which has the effect of reducing the viscosity of the coating or shortening the drying time.
17. "Refinishing" means reapplying coating to a surface to repair, restore, or alter the finish.

18. "Roll Coat Application" means manual application of coatings by the use of a paint roller.
19. "Solvent Consumption" means the volume of solvent purchased or otherwise procured, less the volume recycled or disposed. In the absence of records which document the transfer of solvent to an authorized recycler or waste hauler, solvent consumption means the volume of solvent purchased or otherwise procured.
20. "Standard engineering practices" means that accepted, peer reviewed sets of criteria are used in designing equipment (i.e. Uniform Building, Electrical, and Fire Codes, recommendations of the American Conference of Governmental Industrial Hygienists, guidelines of the Department of Labor and Industry, etc.).
21. "Surface Coating" means the application of coating to a surface.
22. "VOC Content" means pounds of VOC per gallon of coating (Lb/Gal) or grams of VOC per liter of coating (G/L), minus water and exempt solvents. The VOC content is calculated as follows:

$$\text{VOC}_{\text{CT}} = \frac{W_V}{V_M - V_W - V_{\text{ES}}}$$

where:

VOC_{CT} is the VOC content of the coating, as applied to the surface; and

W_V is the weight of VOC per unit volume of coating, as applied to the surface; and

V_M is the unit volume of coating, as applied to the surface; and

V_W is the volume of water per unit volume of coating, as applied to the surface; and

V_{ES} is the volume of exempt solvents per unit volume of coating, as applied to the surface.

23. "Wash Solvent" means any solution, solvent, suspension, compound, or other material, excluding water that is used to clean spray equipment, spray equipment lines, containers, and any other equipment associated with the application of coatings.
24. "Wipe-Down Agent" means any solution, solvent, suspension, compound, or other material that is applied to a surface exclusively for cleaning the surface or preparing the surface for coating.

D. Prohibitions on emissions

1. No person may cause or allow the application of any coating which contains greater than 0.1% by weight of one or more compounds of lead or hexavalent chromium.
 2. Light duty vehicle refinishing - prohibitions on VOC content. Except as provided in Section 3.02.F of this Regulation, no person shall cause or allow the application of any coating or other agent to any light duty vehicle or light duty vehicle component, with a VOC content in excess of the limits listed in 40 CFR 59, Subpart B, Table 1 - EPA National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings.
- E. Requirements. All persons subject to the requirements of Section 3.02 of this Regulation must comply with all of the following, unless exempted under Section 3.02.F of this Regulation.

1. Enclosure and Controls - Spray application must be conducted in a booth or area which is vented to an operating particulate control system. The particulate control system, including filtration, ducting, and fan must be installed and sized according to standard engineering practices. Acceptable filtration methods may include:
 - a. Filter banks supplied with filter media designed for spray booth applications.
 - b. Water baths where the inlet air flow to the water bath is submerged.
 - c. Water wall systems that form a continuous water curtain through which the particulate flow stream must pass.
 - d. Other filtration methods that have received the prior written approval of the Control Officer.

The control system must be equipped with a fan which is capable of capturing all visible overspray. Emissions from the booth/area must be vented to the atmosphere through a vertical stack. The top of the exhaust stack/vent must be at least 6 feet above the penetration point of the roof, or if the exhaust stack/vent exits horizontally out the side of the building, then the exhaust stack/vent must vent vertically at least 6 feet above the eave of the roof. A higher stack/vent may be required if the Agency determines that it is necessary for compliance with WAC 173-400-040. There must be no flow obstruction (elbows, tees, or stack caps) inside of, or at the top of, the stack that will impede upward vertical flow of the exhausted air.

It is the owner/operator's responsibility to comply with other applicable federal, state, and local regulations for the stack/vent.

2. Visible Emissions - Visible emissions from the stack may not exceed 10% opacity averaged over any six minute period, as determined by EPA Method 9.
3. Application methods - Except as provided in Section 3.02.F. of this Regulation, no person may cause or allow the application of any coating or other agent containing VOC unless the coating or agent is applied by one of the following methods:

- a. High Volume, Low Pressure coating system;
- b. Low Volume, Low Pressure coating system;
- c. Wet or Dry electrostatic application;
- d. Flow coat application;
- e. Dip coat application;
- f. Brush coat application;
- g. Pre-packaged aerosol can application;
- h. Roll coat application;
- i. A spraying technique that when tested, using the methodology presented in ASTM Standard D 5327-92, or when test documentation, provided to and approved by the Agency, exhibits that the spraying technique has a transfer efficiency of at least 65%;
- j. Alternate application methods that have received the written approval of the Control Officer. Such alternate methods may be used, provided that the owner or operator makes a written request to use an alternate method and the Control Officer grants approval. These methods include but are not limited to the following application methods and circumstances:
 - 1) Airless and Air-Assisted Airless Spray systems may be used under any of the following circumstances:
 - (a) when the volatile organic compound (VOC) emissions are determined by the Control Officer to be no more than VOC emissions that would be generated by a spray application with a transfer efficiency of 65%;
 - (b) when the spraying operation is automated;
 - (c) when spray painting structural steel members where the coating, as formulated by the coating manufacturer, does not require addition of reducers to spray, and is delivered under high pressure (> 1,000 psig for airless, or > 300 psig for air-assisted airless) to the application system; or
 - (d) where the Control Officer has determined that the coating cannot be feasibly applied with a method that has a minimum transfer efficiency of 65%.

4. Equipment Cleanup - Equipment cleanup and any other use of wash solvent must be totally enclosed during washing, rinsing, and draining; or wash solvent, after making contact with the equipment being cleaned, must be immediately drained to a closed sump which is an integral part of the cleaning system.
 5. General Clean-up
 - a. All unused or partially used containers of coatings, wipe-down agents, wash solvents, reducers, and waste materials containing VOC must be closed, except when in use, when being filled or emptied.
 - b. Spills must be cleaned up upon discovery and the clean-up materials and collected waste must be stored in closed metal containers.
 - c. All disposable materials which contain VOCs associated with wipe-down or application of coatings and other agents must be stored in closed metal containers for disposal.
 6. Recordkeeping. All persons subject to Section 3.02 of this Regulation must maintain the following records for the previous 24-month period at the place of business where surface coating is performed:
 - a. The most current material safety data sheets (MSDS) or other data sheets which clearly indicate the VOC content of the product and of any multi-coat system.
 - b. Records of purchases and usage, including unused materials returned to the supplier.
 - 1) Light duty vehicle refinishing. Annual purchases and usage of total primers, total top coats, total clear coats, and total gun cleaner. Usage must be reported "as applied", i.e. after reducing and catalyzing, if applicable.
 - 2) Other surface coating facilities. Annual purchases and usage of individual coatings, coating additives, wipe-down agents, wash solvents, reducers, there materials containing volatile organic compounds or volatile toxic air pollutants.
 - c. Waste materials disposal records, including volumes of waste solvents and coatings transferred in sealed containers to authorized waste haulers.
- F. Exceptions. Exceptions to Section 3.02 of this Regulation must be made as follows:
1. Noncommercial exemption. Nothing in Section 3.02 of this Regulation may apply to surface coating operations conducted solely for personal, noncommercial purposes if, on a facility-wide basis, less than 5 gallons of surface coatings are applied per year.

2. Coating process exemptions. Nothing in Section 3.02 of this Regulation applies to the following coating processes:
 - a. The application of architectural coatings to stationary structures and their appurtenances, to mobile homes, to pavements, or to curbs;
 - b. Fiberglass resin application operations;
 - c. Gel coating operations;
 - d. The application of asphaltic or plastic liners. This includes undercoating, sound deadening coating, and spray on bed lining for trucks;
 - e. Spray plasma plating operations; or
 - f. Application of coatings to farming equipment.
3. Low usage exemption. Nothing in Sections 3.02.E.3 & 4 applies to surface coating operations which, on a facility-wide basis, apply less than 10 gallons per year of surface coatings.
4. Exemption for large objects. Nothing in Subsection 3.02.E.1. of this Regulation applies to the infrequent outdoor surface coating of large objects where the Control Officer determines that it is impractical to totally enclose the object inside a booth or vented area. The request for this exemption must be made in writing to the Control Officer and the approval must be in writing. Infrequent means outdoor spray surface coating that amounts to 10% or less of the total annual gallons of paint applied at the facility in the previous 12 months. Annual records must be kept of the number of gallons of paint that are sprayed outdoors. In such case, a temporary enclosure (tarps) must be maintained around the object during the surface coating operation, sufficient at all times to prevent overspray from remaining airborne beyond the property line of the facility.
5. Wash solvent exemption. Nothing in Subsection 3.02.E.4. of this Regulation applies to:
 - a. the use of wash solvents with composite vapor pressure of organic compounds less than 45 mm Hg at 20°C as determined by ASTM Method D-2306-81; or
 - b. wash solvent operations if total wash solvent consumption does not exceed 10 gallons per year.
6. Stack exemption. The stack/vent requirements in Subsection 3.02.E.1. of this Regulation does not apply to surface coating operations where the owner or operator can demonstrate to the satisfaction of the Control Officer that emissions of toxic air pollutants will not exceed the Acceptable Source Impact Levels as defined in WAC 173-460-150 & 160 and emissions will not create a nuisance.

7. Non-spray and aerosol can application exemption. Nothing in Subsection 3.02.E.1 of this Regulation applies to the application of any coating or other agent from pre-packaged aerosol cans, flow coat, dip coat, brush coat, or roll coat applications.
 8. Low VOC content exemption. Nothing in Subsection 3.02.E.3 of this Regulation applies to the application of coatings where the VOC content does not exceed 2.1 Lb/Gal or 250 G/L.
 9. Lead or Hexavalent Chrome exemption. The prohibition in Subsection 3.02.D.1 of this Regulation does not apply to a surface coating operation where the control officer determines that no practical alternative coating is available.
 10. Enclosure and/or particulate control exemption: The enclosure and/or particulate control requirements of Subsection 3.02.E.1 of this Regulation does not apply to a surface coating operation where the control officer determines that such requirements would be ineffective, or unreasonable in capturing or controlling particulate or volatile organic compounds emissions from the facility.
 11. Inside exhaust exemption: If the Department of Labor & Industries or another agency of jurisdiction determines that the emissions from a surface coating operation to an inside work area are below the threshold where an exhaust system is required and the Fire Department or District of jurisdiction has no objection, then the Control Officer may grant an exemption to Subsection 3.02.E.1 of this Regulation.
- G. Compliance with other laws and regulations: Compliance with Section 3.02 of this Regulation or qualifying for an exemption in Section 3.02.F. of this Regulation does not necessarily mean that the surface coating operation complies with fire protection, waste disposal, or other federal, state, or local applicable laws or regulations.

Section 3.03 General Air Pollution Control for Industrial Sources

- A. Air Pollution sources not specifically regulated in this Section are regulated by the current 173-400 WAC General Regulations for Air Pollution Sources and 173-460 WAC Controls for New Sources of Toxic Air Pollutants.
- B. In addition to the source-specific requirements in this Section, requirements of Article 9 Source Registration of this Regulation apply.

ARTICLE 4

General Standards for Particulate Matter

ADOPTED: **11-Dec-2014**

[Statutory Authority: RCW 70.94.141]

PURPOSE: This Article is intended to prevent and reduce fugitive dust emissions from projects which destabilize soil in Benton County.

Section 4.01 Definitions

- A. "Fugitive dust" means a particulate emission made airborne by forces of wind, human 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 emissions.
- B. "Fugitive emissions" means emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
- C. "Destabilization project" means construction, repair, or demolition of any building or road, or landscaping work on a property, which destabilizes the soil and thus has potential for fugitive dust emissions.
- D. "Emergency" means:
 - 1) Active operations conducted during emergency, life threatening situations, or in conjunction with an officially declared disaster or state of emergency; or
 - 2) Active operations conducted by public service utilities to provide electrical, natural gas, telephone, water, or sewer service during emergency outages.
- E. "Facility" means any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative).

Section 4.02 Particulate Matter Emissions

- A. **Fallout.** No person may cause or allow the emission of particulate matter from any source to be deposited beyond the property under direct control of the owner or operator of the source in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material is deposited. [WAC 173-400-040(3)]
- B. **Fugitive emissions.** The owner or operator of any emissions unit or operation engaging in materials handling, construction, demolition or other operation which is a source of fugitive emission: [WAC 173-400-040(4)]
 - 1. Must take reasonable precautions to prevent the release of air contaminants from the operation located in an attainment or unclassifiable area and not impacting any nonattainment area. [WAC 173-400-040(4)(a)]

2. Are required to use reasonable and available control methods If the emissions unit has been identified as a significant contributor to the nonattainment status of a designated nonattainment area. The methods must include any necessary changes in technology, process, or other control strategies to control emissions of the air contaminants for which nonattainment has been designated. [WAC 173-400-040(4)(b)]

C. Fugitive dust [WAC 173-400-040(9)]

1. The owner or operator of a source, including developed or undeveloped property, or activity that generates fugitive dust must take reasonable precautions to prevent that fugitive dust from becoming airborne and must maintain and operate the source to minimize emissions. [WAC 173-400-040(9)(a)]
2. These reasonable precautions may include, but are not limited to watering, chemical stabilizers, physical barriers, compaction, gravel, vegetative stabilization, mulching and keeping open areas to a minimum.
3. The owner or operator of any existing source or activity that generates fugitive dust that has been identified as a significant contributor to a PM-10 or PM-2.5 nonattainment area is required to use reasonably available control technology to control emissions. Significance will be determined by the criteria found in WAC 173-400-113(4). [WAC 173-400-040(9)(b)]

D. Project Notification

RESERVED

E. Dust Control Plans

1. Applicability. The owner or operator of any destabilization project must maintain a written dust control plan for the project and make the dust control plan readily available.
2. Exemptions.
 - a. Any project at an existing facility.
 - b. Any emergency project.
 - c. Any agricultural operation.
3. Dust Control Plan Requirements.
 - a. Dust control plans must identify management practices and operational procedures which will effectively control fugitive dust emissions.
 - b. Dust control plans must contain the following information:
 - i. A detailed map or drawing of the site;
 - ii. A description of the water source to be made available to the site, if any;
 - iii. A description of preventive dust control measures to be implemented, specific to each area or process; and

- iv. A description of contingency measures to be implemented in the event any of the preventive dust control measures become ineffective.
 - c. An owner or operator must implement effective dust control measures outlined in dust control plans.
 - d. The owner or operator must provide the Agency with a copy of the plan within two business days of it being requested.
- 4. Master Dust Control Plan.
 - a. As an alternative to a site dust control plan, an owner or operator may develop a master dust control plan that applies to more than one site or project. The master plan must:
 - i. Address all the requirements in Section 4.02.E.3 of this Regulation; and
 - ii. Provide for effective control of fugitive dust emissions to all sites and projects.
 - iii. Prior to the commencement of work at any site or project covered by the master plan, the owner or operator must notify the Agency.

ARTICLE 5

Outdoor Burning

ADOPTED: 17-Feb-2005

AMENDED: 11-Dec-2014

[Statutory Authority: RCW 70.94.6511, RCW 70.94.6554]

PURPOSE: This Article establishes controls on outdoor burning in Benton County in order to reduce particulate emissions and public exposure to Toxic Air Pollutants as listed in Chapter 173-460 WAC, in Benton County.

Section 5.01 Definitions

- A. Definitions of all terms in this article, unless otherwise defined below, are as defined in WAC 173-425-030.
- B. "Burn day" means a day, as determined by the Agency, during which outdoor burning may take place in areas where outdoor burning is allowed. The length of the burn day is defined as the period from 9:00 AM until one hour before sunset.
- C. "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.
- D. "Urban Growth Area" or "UGA" means land, generally including and associated with an incorporated city, designated by a county for urban growth under RCW 36.70A.030.

Section 5.02 Special Burning Permits

- A. All types of outdoor burning require a special burning permit, unless exempted in Section 5.02.F or 5.03 of this Regulation.
- B. A request for special burning permit application for a special burning permit must be submitted at least five (5) working days before the proposed burning dates. Special burning permits are subject to a fee as described in Article 10 of this Regulation and payable at the time of application. Payment of the application fee does not guarantee the applicant that a special burning permit will be approved.
- C. Any special burning permit issued by the Agency will specify restrictions and conditions on a case-by-case basis.
- D. Permit holders must comply with all conditions listed in the permit.
- E. Special burning permits are valid for a period not to exceed one (1) year.

- F. The Agency will approve with conditions, or deny, any outdoor burning permits as needed to comply with state and local air pollution rules and regulations. All permits will include conditions to satisfy the requirements in WAC 173-425-050, and may require other conditions, such as restricting the time period for burning, restricting permissible hours of burning, imposing requirements for good combustion practice, and restricting burning to specified weather conditions. The Agency may also include conditions to comply with other state and local air pollution rules and regulations pertaining to outdoor burning.
- G. A special burning permit will not be required by fire protection districts for firefighting instruction fires for training to fight:
 - 1. Structural fires by fire protection districts outside the UGAs provided that the Agency Form *Fire Training Notification Outside Urban Growth Areas* is submitted and approved prior to conducting the training fire as provided in RCW 52.12.150;
 - 2. Aircraft crash rescue fires as provided in RCW 70.94.650(5); or
 - 3. Forest fires as provided in RCW 70.94.650.1.b.

Section 5.03 Outdoor Burning Requirements

- A. The person responsible for the fire must contact the Agency to determine if the type of burning to be conducted is permitted for the day and may not burn when the type of burning to be conducted is prohibited.
- B. Inside Urban Growth Areas
 - 1. Residential and land clearing burning is prohibited inside all UGAs of Benton County, which include but are not limited to Kennewick, Richland, West Richland, Prosser, and Benton City.
- C. Outside Urban Growth Areas
 - 1. Residential burning may be conducted without obtaining a permit, if such burning can be conducted in accordance with the requirements of Section 5.03.E of this Regulation and the following:
 - a. Residential burning may only occur during permitted hours on a burn day;
 - b. Residential burns may contain only material that was generated at the residence where the burn occurs;
 - c. The pile may not be larger than four feet by four feet by three feet (4 ft. x 4 ft. x 3 ft.);
 - d. Only one pile at a time may be burned, and each pile must be extinguished before lighting another; and
 - e. No outdoor fire is permitted within five hundred (500) feet of forest slash.
- D. Inside and Outside Urban Growth Areas
 - 1. A permit is not required to burn tumbleweeds that have been blown by the wind.
 - 2. A permit is not required for recreational fires with a total fuel area that is less than three feet in diameter and/or two feet in height.
- E. General Requirements
 - 1. All outdoor burning is subject to the following:

- a. The following materials may not be burned in any outdoor fire:
 - Garbage;
 - Dead animals;
 - Asphalt;
 - Petroleum products;
 - Paints;
 - Rubber products;
 - Plastics;
 - Paper (other than what is necessary to start a fire);
 - Cardboard;
 - Treated wood;
 - Construction/demolition debris;
 - Metal; or
 - Any substance (other than natural vegetation) that normally releases toxic emissions, dense smoke, or obnoxious odors when burned.
- b. No outdoor fire may contain material (other than firewood) that has been hauled from inside the UGA to a location outside the UGA;
- c. If material is transferred from multiple locations outside the UGA to a single location outside the UGA, a special burning permit must be obtained before burning the material;
- d. No outdoor fire may be ignited:
 - i. When the Benton County Fire Marshall has declared a ban on burning due to fire safety; or
 - ii. On a day when burning is not permitted by the Agency, during any stage of impaired air quality conditions, or during a forecast, alert, warning, or emergency air pollution episode declared under RCW 70.94.715.
- e. It is unlawful for any person to cause or allow outdoor burning that causes an emission of smoke or any other air contaminant that is detrimental to the health, safety, or welfare of any person, that causes damage to property or business, or that causes a nuisance.
- f. The use of an outdoor container for burning, such as a "burn barrel", for burning, unless regulated under WAC 173-400-070(1), is prohibited throughout Benton County;
- g. A person capable of extinguishing the fire must attend it at all times, and the fire must be extinguished before leaving it;
- h. No fires are to be within fifty (50) feet of structures; and
- i. Permission from a landowner, or owner's designated representative, must be obtained before starting an outdoor fire.

- j. Agricultural heating devices that otherwise meet the requirements of chapter 70.94 RCW will not be considered outdoor fires under this article.
- 2. Outdoor burning is not allowed on any construction or demolition site. However, Section 5.02.G of this Regulation provides requirements for demolition of a structure by a fire protection district for firefighting instructional purposes.
- 3. Material, other than firewood, may not be hauled or transferred from inside the UGA to an area outside the UGA for the purposes of burning.

Section 5.04 Benton Clean Air Agency Requirements

- A. The Agency will make a daily decision determining the restriction on all types of outdoor burning.

ARTICLE 6

Agricultural Burning

ADOPTED: 17-Feb-2005

AMENDED: 11-Dec-2014

[Statutory Authority: chapter 70.74 RCW, RCW 70.94.6528]

PURPOSE: This Article establishes controls on agricultural burning in Benton County in order to reduce particulate emissions and public exposure to Toxic Air Pollutants as listed in Chapter 173-460 WAC, in Benton County.

Section 6.01 Definitions

- A. Definitions of all terms in this article, unless otherwise defined below, are as defined in WAC 173-430-030.
- B. "Agricultural burn day" means a day, as determined by the Agency, during which permitted agricultural burning may take place in areas where agricultural burning is allowed. The length of the burn day is defined as the period from 9:00 AM until one hour before sunset. :
- C. "Incidental agricultural burning" means agricultural burning that meets all of the following conditions:
 1. The burning is incidental to commercial agricultural activities.
 2. The operator must notify the local fire department within the area and the Agency.
 3. The burning does not occur during an air pollution episode or any stage of impaired air quality.
 4. Burning must be limited to these specific items:
 - a. Orchard prunings: An orchard pruning is a routine and periodic operation to remove overly vigorous or nonfruiting tree limbs or branches to improve fruit quality, assist with tree canopy training and improve the management of plant and disease, and pest infestations.
 - b. Organic debris along fencelines: A fenceline or fencerow is the area bordering a commercial agricultural field that is or would be unworkable by equipment used to cultivate the adjacent field.
 - c. Organic debris along or in irrigation or drainage ditches: An irrigation or drainage ditch is a waterway which predictably carries water (not necessarily continuously) and is unworkable by equipment used to cultivate the adjacent field.
 - d. Organic debris blown by the wind: The primary example is tumbleweeds.

- D. "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

Section 6.02 Agricultural Burning Permit

A. Agricultural Burning Permit Required

1. All agricultural burning, except for incidental agricultural burning, requires a written agricultural burning permit from the Agency. Agricultural burning permits are subject to a fee as described in Article 10 of this Regulation and payable at the time of application.
2. Agricultural burning is allowed only on designated agricultural burn days.
3. It is the responsibility of the person conducting agricultural burning to be informed of additional fire safety rules established by the Benton County Fire Marshall.
4. Permit holders must comply with all conditions listed in the permit.

B. Agricultural Burning Permit Not Required

1. .Incidental agricultural burning, as defined in Section 6.01.C of this Regulation, is allowed without obtaining an agricultural burning permit from the Agency and on days that are not agricultural burn days, except when restricted by the Agency under the following conditions:
2. .The Benton County Fire Marshall declared a ban on burning due to fire safety; or
3. .During any stage of impaired air quality conditions, or during a forecast, alert, warning, or emergency air pollution episode; or
4. . The National Weather Service (NWS) in Pendleton, Oregon forecasts surface wind speeds 20 mph or greater. .

ARTICLE 7

Solid Fuel Burning Device

ADOPTED: 17-Feb-2005

AMENDED: 11-Dec-2014

[Statutory Authority: RCW 70.94,141; RCW70.94.450-477]

PURPOSE: This Article establishes controls on solid fuel burning devices in Benton County in order to reduce particulate emissions and public exposure to Toxic Air Pollutants as listed in Chapter 173-460 WAC, in Benton County.

Section 7.01 Definitions

- A. Definitions of all terms in this article, unless otherwise defined, are as defined in WAC 173-433-030.
- B. "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.
- C. "Solid fuel burning device" (same as solid fuel heating device) means a device that burns wood, coal, or any other nongaseous or non-liquid fuels, and includes any device burning any solid fuel, except those prohibited by WAC 173-443-120. This also includes devices used for aesthetic or space-heating purposes in a private residence or commercial establishment, which has a heat input less than one (1) million BTU/hr.
- D. "Woodstove" (same as "wood heater") means an enclosed solid fuel burning device capable of and intended for residential space heating and domestic water heating that meets the following criteria contained in "40 CFR. 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" as amended through July 1, 1990:
 1. An air-to-fuel ratio in the combustion chamber averaging less than 35.0, as determined by EPA Reference Method 28A;
 2. A useable firebox volume of less than twenty cubic feet;
 3. A minimum burn rate less than 5 kg/hr as determined by EPA Reference Method 28; and
 4. A maximum weight of 800 kg, excluding fixtures and devices that are normally sold separately, such as flue pipe, chimney, and masonry components not integral to the appliance.
 5. Any combination of parts, typically consisting of but not limited to: Doors, legs, flue pipe collars, brackets, bolts and other hardware, when manufactured for the purpose of being assembled, with or without additional owner supplied parts, into a woodstove, is considered a woodstove.

- E. "Fireplace" means: Any permanently installed masonry fireplace; or any 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.

Section 7.02 Solid Fuel Burning Device, Prohibitions

- A. Within Benton County, a person may not advertise to sell, offer to sell, sell, bargain, exchange, give away, or install woodstoves, factory-built fireplaces, or other solid fuel burning devices that do not meet the requirements of WAC 173-433-100.
- B. The Agency may declare first and second state air quality impairment in accordance with WAC 173-433-150. During those declarations, the use of any solid fuel burning device is restricted as per WAC 173-433-150.
1. Whenever the Agency has declared the first stage impaired air quality conditions, declared under RCW 70.94.715, residences and commercial establishments with an adequate source of heat other than a solid fuel burning device, may not operate any solid fuel burning device, unless the solid fuel burning device is:
 - a. A non-affected pellet stove; or
 - b. A woodstove certified and labeled by the EPA under "40 CFR. 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" as amended through July 1, 1990; or
 - c. A woodstove meeting the "Oregon Department of Environmental Quality Phase 2" emissions standards contained in Subsections (2) and (3) of Section 340-21-115, and certified in accordance with "Oregon Administrative Rules, Chapter 340, Division 21 - Woodstove Certification" dated November 1984.
 2. Whenever the Agency has declared the second stage of impaired air quality for a geographical area a person in a residence or commercial establishment within that geographical area with an adequate source of heat other than a solid fuel burning device must not operate any solid fuel burning device.
- C. A person may not cause or allow any of the following materials to be burned in a solid fuel burning device, including fireplaces:
- Garbage;
 - Treated wood, defined as wood of any species that has been chemically impregnated, painted, or similarly modified to prevent weathering and deterioration;
 - Plastic and plastic products;
 - Rubber products;
 - Animal carcasses;
 - Asphaltic products;
 - Waste petroleum products;
 - Paints and chemicals; or
 - Any substance which normally emits dense smoke or obnoxious odors other than paper to start the fire, properly seasoned fuel wood, or coal with sulfur content less than one percent (1.0%) by weight burned in a coal-only heater.

ARTICLE 8

Asbestos

ADOPTED: 17-Feb-2005

EFFECTIVE: 9-Apr-2005

[Statutory Authority: RCW 70.94,141]

Section 8.01 Definitions

- A. Definitions of all terms in this article, unless otherwise defined below, are as defined in 40 CFR 61 Subpart M and 40 CFR Part 763 Subpart E.
- B. "Demolition" means:
 - 1. The wrecking or taking out of any load-supporting structural members of a facility or residential unit and any related handling operations; or
 - 2. The intentional burning of any facility or residential unit.
- C. "Emergency renovation operation" 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 non-routine failures of equipment.
- D. "Facility" means any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any 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 or function
- E. "Owner or Operator" means any person who owns, leases, operates, controls, or supervises the facility or residential unit being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.
- F. "RACM" is regulated asbestos containing material as defined in 40 CFR 61 Subpart M
- G. "Renovation" means:
 - 1. Altering a facility
 - 2. Altering one or more facility components in any way, including the stripping or removal of RACM from a facility component
 - 3. Altering a residential unit

4. Altering one or more residential unit components in any way, including the stripping or removal of RACM from a residential unit component.
- H. A "Residential Unit" is defined as any building with four or fewer dwelling units each containing space for uses such as living, sleeping, preparation of food, and eating that is used, occupied, or intended or designed to be occupied by one family as their domicile. This term includes houses, mobile homes, trailers, houseboats, and houses with a "mother-in-law apartment" or "guest room". This term does not include any facility that contains a residential unit.

Section 8.02 CFR Adoption by Reference

In addition to the provisions of Regulation 1, The THE AGENCY adopts by reference:

- A. 40 CFR Part 61 Subpart M "National Emission Standard for Asbestos"; and
- B. 40 CFR Part 763 Subpart E "Asbestos Containing Materials in Schools".

Section 8.03 General Requirements

- A. The owner or operator of a demolition or renovation activity and before the commencement of the demolition or renovation shall thoroughly inspect the affected facility or residential unit where the demolition or renovation operation will occur for the presence of asbestos.
- B. All Section 8.02 requirements shall apply to demolition and renovation activities at a facility or residential unit where the combined amount of RACM is:
 1. Greater than forty-eight (48) square feet; or
 2. Greater than ten (10) linear feet, unless the surface area of the pipe is greater than forty-eight (48) feet.

Section 8.04 Notification Required

- A. All demolition and renovation activities require written notification to the THE AGENCY before stripping, removal, or otherwise handling or disturbing RACM as per Section 8.03. Such notification shall be subject to a fee as per Article 10 and payable at the time of application.
- B. Notification Requirements
 1. Demolition. The owner or operator shall submit a Notice of Intent to Remove Asbestos or to Demolish (NOI) form at least ten (10) working days before proceeding with the demolition, regardless of the presence of RACM.
 2. Renovation. The owner or operator shall submit an NOI form at least ten (10) working days before proceeding with the renovation.
 3. Demolition or Renovation Amendment. The owner or operator amending a previously submitted NOI, as per Section 8.02, shall submit an amended NOI form before proceeding with an activity that requires the amendment.
 4. Emergency Renovation Operation. The owner or operator of an emergency renovation operation shall submit an NOI form and an Emergency Waiver Request form before proceeding with the renovation.

5. Alternate Removal Methods. The owner or operator proposing to use alternate removal methods to those in Section 8.02 shall submit an NOI form and supporting documentation for the alternate method at least ten (10) working days.

Section 8.05 Additional Requirements, Residential Units

- A. Demolition or renovation activities at a residential unit involving stripping, removal, or otherwise handling or disturbing RACM as per Section 8.03 shall only be performed by:
 1. The residential unit owner, if the owner occupies the residential unit; or
 2. A certified asbestos abatement contractor.
- B. A residential unit owner performing demolition or renovation activities at a residential unit shall participate in an educational program prepared by the THE AGENCY concerning the hazards of asbestos removal. This program may include:
 1. Watching an informational video,
 2. Agreement to read and understand informational pamphlets, provided by the THE AGENCY, concerning proper residential asbestos removal. Any questions pertaining to this material shall be addressed by the THE AGENCY.

Section 8.06 Unexpected Discovery of Asbestos

In the event of an unexpected discovery of asbestos during a renovation or demolition activity, the owner or operator shall stop work until the requirements of Section 8.02 have been met.

Section 8.07 Safeguards for the Public in the Case of Suspected Asbestos Spills or Scattering of Suspected Asbestos Material

- A. Until such time as it is determined otherwise, all such cases of spills or scattering of suspected asbestos material, the material shall be considered to be RACM
- B. Actions shall be taken immediately to contain the material and shall include, but are not limited to:
 1. Treat the area with proper precautions associated with RACM;
 2. Regulate the area in which the spill or scattering occurred by preventing entry of unprotected and/or unauthorized persons;
 3. Posting signage indicating the potential danger;
 4. Locking or barring doors in buildings, if applicable; and
 5. If the spill or scattering of the RACM may pose an imminent threat to human health, safety, or to the environment, the spill shall be reported to the Benton County Emergency Response Center ("911"), the Washington State Department of Ecology, and the THE AGENCY.

ARTICLE 9

Source Registration

ADOPTED: 17-Feb-2005

AMENDED: 11-Dec-2014
[Statutory Authority RCW 70.94.151]

PURPOSE: This Article establishes source registration requirements for sources of air pollution in Benton County.

Section 9.01 Source Registration Required

The Agency regulates the sources of air contaminants in Benton County under the authority of RCW 70.94.151. Any source under Identified WAC 173-400-100 whether publicly or privately owned, must register with the Agency unless exempted. ..

Section 9.02 Source Registration Program Purpose and Components

- A. Program purpose.
 - 1. The registration program is a program to develop and maintain a current and accurate record of air contaminant sources. Information collected through the registration program is used to evaluate the effectiveness of air pollution control strategies and to verify source compliance with applicable air pollution requirements.
- B. Program components. The components of the registration program consist of:
 - 1. Initial registration and annual or other periodic reports from stationary source owners providing information on location, size, height of contaminant outlets, processes employed, nature and quantity of the air contaminant emissions, and other information that is relevant to air pollution and available or reasonably capable of being assembled. For purposes of this chapter, information relevant to air pollution may include air pollution requirements established by rule, regulatory order, or ordinance pursuant to chapter RCW 70.94.
 - 2. On-site inspections necessary to verify compliance with registration requirements.
 - 3. Data storage and retrieval systems necessary for support of the registration program.
 - 4. Emission inventory reports and emission reduction credits computed from information provided by source owners pursuant to registration requirements.
 - 5. Staff reviews including engineering analysis for accuracy and currency of information provided by source owners pursuant to registration program requirements.
 - 6. Clerical and other office support in direct furtherance of the registration program.

7. Administrative support provided in directly carrying out the registration program.

Section 9.03 Registered Source General Requirements

- A. General. Any person operating or responsible for the operation of an air contaminant source in Benton County for which registration and reporting are required must register the source emission unit with the Agency. The owner or operator must make reports containing information as may be required by the Agency concerning location, size and height of contaminant outlets, processes employed, nature and quantity of the air contaminant emission and such other information as is relevant to air pollution and available or reasonably capable of being assembled.
- B. Registration form. Registration information must be provided on forms supplied by the Agency and must be completed and returned within the time specified on the form. Emission units within the facility must be listed separately unless the Agency determines that certain emission units may be combined into process streams for purposes of registration and reporting.
- C. Signatory responsibility. The owner, operator, or their designated management representative must sign the registration form for each source. The owner or operator of the source must be responsible for notifying the Agency of the existence of the source, and for the accuracy, completeness, and timely submittal of registration reporting information and any accompanying fee.
- D. Operational and maintenance plan. Owners or operators of registered sources within Benton County must maintain an operation and maintenance plan for process and control equipment. The plan must reflect good industrial practice and must include a record of performance and periodic inspections of process and control equipment. In most instances, a manufacturer's operations manual or an equipment operation schedule may be considered a sufficient operation and maintenance plan. The plan must be reviewed and updated by the source owner or operator at least annually. A copy of the plan must be made available to the Agency upon request.
- E. Report of closure. A report of closure must be filed with the Agency within ninety (90) days after operations producing emissions permanently cease at any applicable source under this Section.
- F. Report of change of ownership. A new owner or operator must report to the Agency within ninety (90) days of any change of ownership or change in operator
- G. Operating permit program source exemption. Permit program sources, as defined in RCW 70.94.030 are not required to comply with the registration requirements of this Section.

Section 9.04 Registered Source Emission Level Classification

- A. Gasoline Facilities:
 1. Gasoline dispensing facilities (gas stations) using Stage I or Stage II vapor recovery systems, as defined in WAC 173-491-
 2. Bulk gasoline plants, as defined in WAC 173-491;
 3. Bulk gasoline terminals, as defined in WAC 173-491;
- B. Class 1. Facilities and sources whose actual annual emissions are less than the following will be classified as Class 1 sources:

1. 20 tons/yr of carbon monoxide (CO);
 2. 8 tons/yr of nitrogen oxides (NO_x);
 3. 8 tons/yr of sulfur dioxide (SO₂);
 4. 5 tons/yr of total suspended particulate (TSP);
 5. 3 tons/yr of fine particulate matter (PM₁₀);
 6. 8 tons/yr of volatile organic compounds (VOC);
 7. 240 pounds/yr of lead;
 8. 1,200 pounds/yr of fluorides;
 9. 2,800 pounds/yr of sulfuric acid mist;
 10. 2 tons/yr of hydrogen sulfide (H₂S); or
 11. 2 tons/yr of total reduced sulfur, including H₂S.
- C. Class 1 Toxic Source. Toxic air pollutants are those listed in WAC 173-460-150. Facilities and sources whose actual emissions are less than the following will be classified as Class 1 Toxic Sources:
1. One (1.0) ton/yr of a single toxic air pollutant; or
 2. Two and one-half (2.5) tons/yr of a combination of toxic air pollutants will be classified as Class 1 Toxic Sources.
- D. Class 2. Sources whose actual annual emissions are greater than that listed in Section 9.04.B, of this Regulation but less than one hundred (100) tons/yr of CO, NO_x, SO₂, TSP, PM₁₀, VOCs, or lead, will be classified as Class 2 Sources.
- E. Class 2 Toxic Sources. Toxic air pollutants are those listed in WAC 173-460-150. Sources whose actual emissions are greater than that listed in Section 9.04.C of this Regulation, but less than ten (10) tons/yr of any single toxic air pollutant or less than twenty-five (25) tons/yr of a combination of toxic air pollutants, will be classified as Class 2 Toxic Sources:
- F. Synthetic Minor Source. Sources that have requested and received a federally enforceable emissions limit that limits the total potential-to-emit of the facility to less than one hundred (100) tons/yr of any criteria pollutant, ten (10) tons/yr of any single hazardous air pollutant, or twenty-five (25) tons/yr of any combination of hazardous air pollutants are synthetic minor sources.

ARTICLE 10
Fees and Charges

ADOPTED: 17-Feb-2005

AMENDED: 11-Dec-2014

[Statutory Authority RCW 70.94.151, RCW 70.94.152]

Section 10.01 Fees and Charges Required

- A. Unless otherwise provided, any fee assessed by the Agency must be paid within thirty (30) days of assessment. Failure to pay a fee may result in the commencement of a formal enforcement action.
- B. Upon approval by the Board as part of the annual budget process, fees may be increased annually by at least the fiscal growth factor as determined by the Washington State Office of Financial Management.
- C. Electronic Payment of Fees. A convenience fee, charged by the fee processor, may be charged to a source for the electronic payment of all or part of the fee at the rates set by the processor.

Section 10.02 Fees Otherwise Provided

All fees and charges provided for in this Article must be in addition to fees otherwise provided for or required to be paid by Regulation 1, provided the Control Officer waives payment of any fee or service charge hereby required if such fee duplicates a fee charged or required to be paid by another Article of this Regulation.

Section 10.03 Fee Exemptions

- A. The Control Officer may waive or reduce the registration fee for an operation provided a source presents sufficient demonstration of hardship circumstances.
- B. Stationary sources subject to the Operating Permit Regulation, Chapter 173-401 WAC.

Section 10.04 General Administrative Fees

- A. A fifty dollar (\$50.00) fee will be assessed for any check written to the Agency returned due to non-sufficient funds.

Section 10.05 Registered Source Fees

- A. the Agency will charge an annual registration fee pursuant to RCW 70.94.151 for services provided in administering the registration program. Fees received under the registration program will not exceed the cost of administering the registration program. The Board will review the registration program on an annual basis.
- B. All air contaminant sources required by Article 9 of this Regulation to be registered are subject to the following fees:
 1. Class 1 and Class 1 Toxic Sources will pay an annual registration fee of:
 - a. A base fee of three hundred fifty dollars (\$350.00);
 - b. Fifty dollars (\$50.00) per ton of criteria pollutant emitted;
 - c. One hundred fifty dollars (\$150.00) per ton or fraction of a ton of toxic air pollutant emitted; and
 - d. Fifty (\$50.00) dollars per emission process unit or emission point.
 2. Class 2 and Class 2 Toxic Sources will pay an annual registration fee of:
 - a. A base fee of seven hundred fifty dollars (\$750.00);
 - b. Fifty dollars (\$50.00) per ton of criteria pollutant emitted;
 - c. One hundred fifty dollars (\$150.00) per ton or fraction of a ton of toxic air pollutant emitted; and
 - d. Fifty (\$50.00) dollars per emission process unit or emission point.
 3. Synthetic Minor Sources will pay an annual registration fee of:
 - a. A base fee of fifteen hundred dollars (\$1,500.00);
 - b. Fifty dollars (\$50.00) per ton of criteria pollutant emitted;
 - c. One hundred fifty dollars (\$150.00) per ton or fraction of a ton of toxic air pollutant emitted; and
 - d. Fifty (\$50.00) dollars per emission process unit or emission point.
 4. Gasoline facilities will pay an annual registration fee of:
 - a. Gasoline Loading Terminals: two thousand dollars (\$2,000.00) plus fifty dollars (\$50.00) per ton of pollutant emitted;
 - b. Bulk Gasoline Plants: eight hundred dollars (\$800.00) plus fifty dollars (\$50.00) per ton of pollutant emitted; and
 - c. Gasoline Dispensing Facilities:
 - i. Fee is determined by multiplying current annual gasoline throughput (greater than 400,000) in gallons times \$0.0005 per gallon.
 - 2) Fee for stations with annual throughput less than 400,000 gallons will be two hundred dollars (\$200.00).
- C. Fee Payment

1. Fee Payment. The annual registration fee is due and payable by April 15th of each year, unless otherwise specified in writing to the source by the Agency.
2. Late Payment of Fees. A late fee will be charged to a source for late payment of all or part of its annual registration fee at the following rates:
 - a. Ten percent of the source's total assessed fee for payment received after the due date for fee payment but up to the first thirty days past the due date for fee payment;
 - b. Fifteen percent of the source's total assessed fee for payment received between the thirty-first day and the sixtieth day past the due date for fee payment; and
 - c. Twenty-five percent of the source's total assessed fee for payment received between the sixty-first day and the ninetieth day past the due date for fee payment.
3. Failure to Pay Fees. The Agency will charge a penalty to a permit program source under its jurisdiction for failure to pay all or part of its annual registration fee and/or penalties thereon after ninety days past the due date for fee payment in an amount three times the source's total assessed fee. Failure to pay all or part of an annual registration fee after the ninety first day past the due date may result in enforcement action.
4. Other Penalties. The penalties authorized in Section 10.08.A.5.b and c of this Regulation are additional to and in no way prejudice the Agency's ability to exercise other civil and criminal remedies, including the authority to revoke a source's operating permit for failure to pay all or part of its operating permit fee.
5. Facility Closure. Sources that permanently cease operations will be required to pay only a pro rata portion of the annual registration fee for the fiscal year in which they cease operations. The portion of the fee to be paid will be calculated by dividing the number of calendar days that have passed in the relevant calendar year at the time the source ceases operations by the total of 365 calendar days, and multiplying the fraction thus derived by the fee that the source would have paid for the relevant calendar year, had it not ceased operations.
6. Transfer in Ownership. Transfer in ownership of a source will not affect that source's obligation to pay registration fees. Any liability for fee payment, including payment of late payment and other penalties will survive any transfer in ownership of a source.

Section 10.06 Fees for Application for Notice of Construction (NOC) for Stationary and Portable Sources, and Notice of Intent to Operate (NIO) Relocating Portable Sources

- A. NOC Application Filing Fee. An application filing fee will be due and payable at the time of filing the NOC application. The filing fee is non-refundable.
 1. Permanent stationary source: The filing fee will be four hundred dollars (\$400.00).
 2. Portable source: The filing fee will be five hundred dollars (\$500.00).
- B. Portable Source NIO Filing Fee. A Filing fee will be due and payable at the time of filing the NIO form. The filing fee is non-refundable. NIO must be received at least 15 days prior to starting operation.

1. Notice of Intent to Operate: The owner or operator of a portable source with a valid permit per WAC 173-400-036 must 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 (NIO). You must receive an Approval to Operate Portable Source from Benton Clean Air Agency prior to starting operation.
 - a. Relocation of portable source with the Agency permit. The filing fee will be one hundred fifty dollars (\$150.00) and will be charged each time the source relocates within the boundaries of Benton County. Additional fees will apply per Table 10-1.
 - b. Inter Jurisdictional Relocation of portable sources under WAC 173-400-036. The filing and technical review fee will be five hundred dollars (\$500.00). Additional fees will apply per Table 10-1.

C. NOC or NIO Engineering Examination and Inspection Fee.

1. An examination and inspection fee will be charged according to Table 10-1. The engineering and inspection fee will be due and payable at the time of filing the NOC or NIO, unless otherwise specified to the applicant by the Agency.
2. Emergency application or expedited review fee will be two (2) times the normal application and review fee.

D. Additional Fees

Additional fees may be charged according to Table 10-2. Table 10-2 fees are cumulative. The additional fees will be due and payable at the time of filing the NOC or NIO, unless otherwise specified to the applicant by the Agency.

1. Fee amounts in Table 10-1 and 10-2 listed as "Actual" are based upon the Agency's actual cost to complete a review or task and will be determined using the actual or direct hours expended completing the specific review or task.
 2. If an NOC or NIO applicability determination fee is received by the Agency and an NOC or NIO is determined not to be required, the Engineering Examination and Inspection Fee will be the actual time expended at the current engineering charge rate in dollars per hour.

- E. Any NOC or NIO application received by the Agency without the accompanying fee will be rejected and returned to sender. Such action will not constitute a determination of completeness or incompleteness as per WAC 173-400-111.

Table 10-1: NOC or NIO Engineering Examination and Inspection Fees

CATEGORY	FEE	CATEGORY	FEE
Fuel Burning Equipment with or without Air Pollution Equipment (million Btu/hr)		Spray Painting (per booth) \$500	
5 or less.....	\$500	Dry Cleaner (per machine).....	\$600
Greater than 5 to 10	\$600	Coffee Roaster.....	\$700
Greater than 10 to 30	\$750	Asphalt Plant, Cement Plant, or	
Greater than 30 to 50	\$900	Rock Crushing Plant (Non-Portable)	\$2,000
Greater than 50 to 100	\$1,200	Asphalt Plant or Concrete Plant,	
Greater than 100 to 250	\$2,500	Plant (Portable) engineering fee.....	\$500
Greater than 250 to 500	\$4,000	Initial Filing Fee.....	\$400
Greater than 500	\$6,000		
Fuel change or new fuel	½ new installation fee		
Process Equipment, Air Pollution Control Device, and/or Uncontrolled Process Discharge (ft³/min)		Particulate matter and fugitive emissions from rock crushing, material transfer and ship loading (Emissions - tons per year):	
50 or less.....	\$600	Less than or equal to 10	\$ 600.00
Greater than 50 to 5,000	\$700	Greater than 10 to 50	\$1,000.00
Greater than 5,000 to 20,000	\$800	Greater than 50 to 100	\$1,500.00
Greater than 20,000 to 50,000	\$900	Greater than 100 to 250	\$2,500.00
Greater than 50,000 to 100,000	\$950	Greater than 250	\$6,000.00
Greater than 100,000 to 250,000	\$1,000		
Greater than 250,000 to 500,000	\$2,000	Diesel engine generators/pumps (Aggregate horsepower rating):	
Greater than 500,000	\$4,000	Less than or equal to 100	\$ 600.00
Refuse Burning Equip (tons/day)		Greater than 100 to 500	\$700.00
0.5 or less.....	\$700	Greater than 500 to 2,000	\$1,000.00
Greater than 0.5 to 5	\$800	Greater than 2,000 to 5,000	\$1,500.00
Greater than 5 to 12	\$1,000	Greater than 5,000 to 10,000	\$3,000.00
Greater than 12 to 50	\$3,000	Greater than 10,000	\$6,000.00
Greater than 50 to 250	\$6,000		
Greater than 250	\$12,000	Soil Thermal Desorption Unit	
Other Incinerators (pounds/hr)		Initial.....	\$3,000
100 or less.....	\$300	Relocation of Unit.....	\$1,000
Greater than 100 to 200	\$600	Odor Source	\$500
Greater than 200 to 500	\$1,200	Composting Facility	Actual
Greater than 500 to 1000	\$2,400	Landfill Gas System	Actual
Greater than 1000	\$3,000	Soil and Groundwater Remediation	Actual
Storage Tanks (gal)		Review of projects under RCW 70.105D.090	Actual
10,000 or less.....	\$600	Review of Ecology "Agreed Orders" and "Consent Orders" pursuant to RCW 70.105D.090(1).....	Actual
Greater than 10,000 to 40,000	\$1000	All other sources not listed.....	greater of \$1000 or Actual
Greater than 40,000 to 100,000	\$1,500		
Greater than 100,000	\$2000		
Gasoline Dispensing Facilities			
Stage I	\$500		
Stage II	\$600		
Stage I and II Combined.....	\$700		
Toxics review for gasoline facility	\$1,500		
Removal of Stage II	\$600		

Table 10-2: Additional Fees

CATEGORY	FEE	CATEGORY	FEE
Public Notices.....	Actual	Variance Request.....	Actual
Publishing of Public Notices	Actual	Alternative Opacity Limits Review	Actual
Public Hearings.....	Actual	Inspection of Source that began Construction/Operation without Approval/Permit	greater of \$500 or Actual
Air Toxics Screening as per Chapter 173-460 WAC		Follow up inspection after identified violations have not been fixed	\$100.00
Review of source supplied ASIL.....	\$300	Synthetic Minor Determination	Actual
Review of source supplied risk analysis.....	\$1000	Major Source, Major Modification, or PSD Thresholds	Actual
BCAA conducted screening analysis	Actual	Emission Units subject to NSPS or NESHAP (except residential woodstoves, heaters, asbestos renovation or demolition and PCE dry cleaning)	Actual
NOC/NIO Application Assistance.....	Actual	Construction or Reconstruction of a Major Source of Hazardous Air Pollutants.....	Actual
NOC/NIO Applicability Determination.....	Actual	Each CEM or Alternate Monitoring Device	Actual
NOC-CEM or Alternate Monitoring Device Installed	Actual	Each Source Test Required in NOC	Actual
Environmental Impact Statement Review	Actual	Opacity/Gain Loading Correlation.....	Actual
NOC Order of Approval Modification lesser of ½ NOC/NIO fee or \$350		Bubble Application	Actual
RACT/BACT/MACT/BART/LAER Determination	Actual	Netting Analysis.....	Actual
Emission Offset Analysis.....	Actual		
Emission Reduction Credit (ERC) Application.....	Actual		

Section 10.07 State Environmental Policy Act (SEPA) Fees

- A. Where review of an Environmental Impact Statement (EIS), Environmental Checklist, or an addendum to, or adoption of, an existing environmental document pursuant to Chapter 197-11 WAC is required, in association with an NOC or a NIO, the applicant will pay a review fee of the greater of:
 - 1. One-hundred fifty dollars (\$150.00), due and payable at the time of submittal; or
 - 2. Actual costs to complete the review or task and will be determined using the actual or direct hours expended completing the specific review and the corresponding hourly rate of each staff person directly involved. Actual costs will be billed by the Agency to the owner, operator, or applicant after a threshold determination has been made and/or a preliminary determination has been issued
- B. Additional fees may be charged according to Table 10-2. Table 10-2 fees are cumulative. The additional fees will be due and payable at the time of filing, unless otherwise specified to the applicant by the Agency.

Section 10.08 Asbestos Fees and Waiting Periods

- A. Any fee required under Table 10-3 for asbestos projects will be due and payable at the time of filing, unless otherwise specified to the applicant by the Agency.
- B. Failure to pay all or part of the fee may result in the commencement of a formal enforcement action.
- C. The waiting period begins at the time of filing.

Table 10-3: Asbestos Fees

Demolition/Asbestos Projects at Residential Units		
Activity	Waiting Period	Fee
Demolition	5 Days	\$50
Owner Occupied Single Family Residence Asbestos Project ≥10 linear. ft. or ≥48 sq. ft. performed by residing owner	Prior Notice	\$25
All Other Residential Asbestos Projects . 10 linear feet or ≥48 sq. ft	3 Days	\$50
Demolition or Asbestos Project Amendment	Prior Notice	\$0
Emergency Notification Waiver	Prior Notice	Twice the Regular Fee
Asbestos Project Using Alternate Work Practices	10 Days	Twice the Regular Fee

Demolition/Asbestos Projects at Facilities		
Activity	Waiting Period	Fee
Demolition	10 Days	\$150
Asbestos Project:		
10 to 259 ln ft and/or 48 to 159 ft ²	10 Days	\$150
260 to 999 ln ft and/or 160 to 4,999 ft ²	10 Days	\$325
1,000 to 9,999 ln ft and/or 5,000 to 49,999 ft ²	10 Days	\$650
Over 10,000 ln ft and/or Over 50,000 ft ²	10 Days	\$1800
Annual Notification	Prior Notice	\$1800
Demolition or Asbestos Project Amendment	Prior Notice	\$0
Emergency Notification Waiver	Prior Notice	Twice the Regular Fee
Asbestos Project Using Alternate Work Practices	10 Days	Twice the Regular Fee

Asbestos Containing Waste Material Temporary Storage Permit	
ACWM Temporary Storage Permit Application	\$75

Section 10.09 Title 5 Air Operating Permit Fees

[Statutory Authority RCW 70.94.161]

All eligible sources under Chapter 173-401 WAC will be subject to the annual fees described in this Section.

A. Permanent annual fee determination and certification

1. Fee Determination

- a. Fee Determination. The Agency will develop a fee schedule using the process outlined below, according to which it will collect fees from permit program sources under its jurisdiction. The fees will be sufficient to cover all permit administration costs. The Agency will also collect its jurisdiction's share of Ecology's development and oversight costs. The fee schedule will differentiate as separate line items the Agency and Ecology's fees. Opportunities for public participation will be afforded throughout the fee determination process, as provided in Section 10.08.A.3.a of this Regulation.
- b. Fee Eligible Activities. The costs of permit administration and development and oversight activities are fee eligible.
 - 1). Permit Administration. Permit administration costs are those incurred by the Agency in administering and enforcing the operating permit program with respect to sources under its jurisdiction. Eligible permit administration costs are as follows:
 - a) Pre-application assistance and review of an application and proposed compliance plan for a permit, permit revision, or renewal;
 - b) Source inspection, testing, and other data-gathering activities necessary for the development of a permit, permit revision, or renewal;
 - c) Acting on an application for a permit, permit revision, or renewal, including the costs of developing an applicable requirement as part of the processing of a permit, permit revision, or renewal, preparing a draft permit and fact sheet, and preparing a final permit, but excluding the costs of developing BACT, LAER, BART, or RACT requirements for criteria and toxic air pollutants;
 - d) 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;
 - e) Modeling necessary to establish permit limits or to determine compliance with permit limits;
 - f) Reviewing compliance certifications and emissions reports and conducting related compilation and reporting activities;
 - g) Conducting compliance inspections, complaint investigations, and other activities necessary to ensure that a source is complying with permit conditions;

- h) Administrative enforcement activities and penalty assessment, excluding the costs of proceedings before the pollution control hearings board and all costs of judicial enforcement;
 - i) The share attributable to permitted sources of the development and maintenance of emissions inventories;
 - j) The share attributable to permitted sources of ambient air quality monitoring and associated recording and reporting activities;
 - k) Training for permit administration and enforcement;
 - l) Fee determination, assessment, and collection, including the costs of necessary administrative dispute resolution and penalty collection;
 - m) Required fiscal audits, periodic performance audits, and reporting activities;
 - n) Tracking of time, revenues and expenditures, and accounting activities;
 - o) Administering the permit program including the costs of clerical support, supervision, and management;
 - p) Provision of assistance to small businesses under the jurisdiction of the permitting authority as required under section 507 of the Federal Clean Air Act; and
 - q) Other activities required by operating permit regulations issued by the United States Environmental Protection Agency under the Federal Clean Air Act.
- 2) Ecology Development and Oversight. Development and oversight costs are those incurred by Ecology in developing and administering the state operating permit program and in overseeing the administration of the program by the delegated local authorities. Development and oversight costs are in Chapter 252, Laws of 1993 Section 6.2.b of this Regulation.
- c. Workload Analysis.
- 1). the Agency will conduct an annual workload analysis of the previous years' work, to projecting resource requirements for the purpose of preparation for permit administration. The workload analysis will include resource requirements for both the direct and indirect costs of the permit administration activities in Section 10.08.A.1.b.i of this Regulation.
 - 2) Ecology will, for the two-year period corresponding to each biennium, identify the development and oversight activities that it will perform during that biennium. The eligible activities are those referenced in Section 10.08.A.1.b.ii of this Regulation.
- d. Budget Development. The Agency will annually prepare an operating permit program budget. The budget will be based on the resource requirements identified in an annual workload analysis and will take into account the projected fund balance at the start of the calendar year. The Agency will publish a draft budget for the following calendar year on or before May 31 and will provide opportunity for public comment in accordance with Chapter 173-401 WAC Operating Permit Regulation. The Agency will publish a final budget for the following calendar year on or before June 30.
- e. Allocation Method.

- 1) Permit Administration Costs. The Agency will allocate its permit administration costs and its share of Ecology's development and oversight costs among the permit program sources for which it acts as permitting authority, according to a three-tiered model based upon:
 - a) The number of sources under its jurisdiction;
 - b) The complexity of the sources under its jurisdiction, and
 - c) The size of the sources under its jurisdiction, as measured by the quantity of each regulated pollutant emitted. The quantity of each regulated pollutant emitted by a source will be determined based on the annual emissions data during the most recent calendar year for which data is available. Each of the three tiers will be equally weighted.
 - 2) Ecology Development and Oversight Costs. Ecology will allocate its development and oversight costs among all permitting authorities, including the Agency based upon the number of permit program sources under the jurisdiction of each permitting authority. If Ecology determines that it has incurred extraordinary costs in order to oversee a particular permitting authority and that those costs are readily attributable to the particular permitting authority, Ecology may assess to that permitting authority such extraordinary costs.
- f. Fee Schedule. The Agency will issue annually a fee schedule reflecting the permit administration fee and Ecology's development and oversight fee to be paid by each permit program source under its jurisdiction. The fee schedule will be based on the information contained in the final source data statements for each year; the final source data statements will be issued after opportunity for petition and review has been afforded in accordance with Section 10.08.A..4 of this Regulation.
2. Fee Collection - Ecology and Benton Clean Air Agency.
 - a. Collection from Sources. The Agency, as a delegated local authority, will collect the fees from the permit program sources under its jurisdiction.
 - 1) Permit Administration Costs. The Agency will collect from permit program sources under its jurisdiction fees sufficient in the aggregate to cover its permit administration costs.
 - 2) Ecology Development and Oversight Costs. The Agency will collect from permit program sources under its jurisdiction fees sufficient in the aggregate to cover its share of Ecology's development and oversight costs.
 - b. Dedicated Account.

All receipts from fees collected by the Agency, as a delegated local authority, from permit program sources will be deposited in - dedicated account -. Expenditures from these dedicated accounts will be used only for the activities described in RCW 70.94.162.

3. Accountability

- a. Public Participation during Fee Determination Process. The Agency will provide for public participation in the fee determination process described under Section 10.09.A. of this Regulation which provision will include but not be limited to the following:
 - 1) The Agency will provide opportunity for public review of and comment on:
 - a) Each annual workload analysis;
 - b) Each annual budget; and
 - c) Each annual fee schedule
 - 2) The Agency will submit to Ecology for publication in the Permit Register notice of issuance of its draft annual workload analysis, issuance of its draft annual budget and issuance of its draft annual fee schedule.
 - 3) The Agency will make available for public inspection and to those requesting opportunity for review copies of its draft:
 - a) Annual workload analysis on or before May 31;
 - b) Annual budget on or before May 31; and
 - c) Annual fee schedule on or before May 31.
 - 4) The Agency will provide a minimum of thirty (30) days for public comment on the draft annual workload analysis and draft annual budget. Such thirty-day period for comment will run from the date of publication of notice in the Permit Register as provided in this Section....
- b. Tracking of Revenues, Time and Expenditures.
 - 1) Revenues: The Agency will track revenues on a source-specific basis.
 - 2) Time and Expenditures: the Agency will track time and expenditures on the basis of functional categories as follows:
 - a) Application review and permit issuance;
 - b) Permit modification;
 - c) Permit maintenance;
 - d) Compliance and enforcement;
 - e) Business assistance;
 - f) Regulation and guidance development;
 - g) Management and training; and
 - h) Technical support.
 - 3) Use of Information Obtained from Tracking Revenues, Time and Expenditures: The Agency will use the information obtained from tracking revenues, time and expenditures to modify its workload analysis during each calendar year's review provided for under Section 10.09.A.1.d of this Regulation.
 - 4) The information obtained from tracking revenues, time, and expenditures will not provide a basis for challenge to the amount of an individual source's fee.

- c. Periodic Fiscal Audits, Reports and Performance Audits. A system of regular, periodic fiscal audits, reports and performance audits will be conducted in order to evaluate Ecology's and the Agency's operating permit program administration, as follows:
 - 1) Fiscal Audits. The Agency will contract with the State Auditor to perform a standard fiscal audit of its operating permit program every other year.
 - 2) Annual Routine Performance Audits. The Agency will be subject to annual routine performance audits, except that the routine audit will be incorporated into the extensive performance audit, conducted pursuant to Section 10.09.A.3.c.v of this Regulation in each year during which an extensive performance is conducted. Ecology will issue guidance regarding the content of the routine performance audits and will conduct the Agency audits.
 - 3) Annual Random Individual Permit Review. One permit issued by the Agency will be subject to review in conjunction with the annual routine performance. The permit to be reviewed will be selected at random. Ecology will issue guidance regarding the content of the random individual permit review and will conduct the Agency's review.
 - 4) Periodic Extensive Performance Audits. The Agency will be subject to extensive performance audits every five years. In addition, the Agency may be subject to an extensive performance audit more frequently under the conditions of Section 10.09.A.3.c.v of this Regulation. Ecology will issue guidance regarding the content of the extensive performance audits and will conduct the audits of this agency.
 - 5) Finding of Inadequate Administration or Need for Further Evaluation. If, in the process of conducting a fiscal audit, annual routine audit, or annual random individual permit review, the auditor or Ecology finds that the Agency is inadequately administering the operating permit program or finds that further evaluation is immediately warranted, an extensive performance audit will be conducted, as provided in Section 10.09.A.3.c.iv of this Regulation.
 - 6) Annual Reports: The Agency will prepare an annual report evaluating its operating permit program administration. Such report will include any findings of the auditor or Ecology resulting from the relevant fiscal audits, annual routine audits, annual random individual permit reviews or periodic extensive performance audits. The Agency will submit its report to its Board and to Ecology.
- 4. Administrative Dispute Resolution.
 - a. Preliminary Statement of Source Data: The Agency will provide to the permit program sources under their respective jurisdictions a preliminary statement of emissions and other data from that source upon which the Agency intends to base its allocation determination under Section 10.09.A.1. e of this Regulation. Such preliminary statement will be provided to the permit program sources on or before September 30 of each year. Such preliminary statement will indicate the name, address and telephone number of the person or persons to whom the source or other individual may direct inquiries and/or petitions for review under Section 10.08.A. 4.b of this Regulation regarding the accuracy of the data contained therein.
 - b. Petition for Review of Statement: A permit program source or other individual under the jurisdiction of the Agency as a delegated local authority, may petition to review for

accuracy the data contained in the preliminary source data statement provided for under Section 10.08.A.4.a of this Regulation. Such petition will be lodged on or before October 31 of each year. Such petition will be in writing, directed to the individual indicated on the statement of source data. Such petition will indicate clearly the data to be reviewed, the specific action that the source or petitioning individual is requesting be taken and may, if the source or petitioning individual desires, be accompanied by written documentation supporting the request for review. Such petition will, in addition, state the name, address and telephone number of the person or persons to whom the Agency may direct inquiries regarding the request. Upon receipt of such a petition, the Agency, as a delegated local authority, must issue its written response to the petitioner on or before November 30 of each year. Such response will state the conclusions of the review and the reasons therefore, and will contain a new preliminary source data statement, revised to reflect any changes necessitated by the Agency's response.

- c. Final Source Data Statement: The Agency will provide to the permit program sources under its jurisdiction a final statement of emissions and other data from that source upon which the Agency will base its allocation determination under Section 10.08.A.1 of this Regulation along with an invoice reflecting the fee billed to that source on or before December 31 of each year.

5. Fee Payment and Penalties

- a. Fee Payment: Each permit program source will pay a fee in the amount reflected in the invoice issued under Section 10.09.A.4.c of this Regulation. Such fee will be due on or before February 28 of each year.
- b. Late Payment of Fees: The Agency will charge a penalty to a permit program source under its jurisdiction for late payment of all or part of its operating permit fee at the following rates:
 - 1) Ten percent of the source's total assessed fee for payment received after the due date for fee payment but up to the first thirty days past the due date for fee payment;
 - 2) Fifteen percent of the source's total assessed fee for payment received between the thirty-first day and the sixtieth day past the due date for fee payment; and
 - 3) Twenty-five percent of the source's total assessed fee for payment received between the sixty-first day and the ninetieth day past the due date for fee payment.
- c. Failure to Pay Fees. The Agency will charge a penalty to a permit program source under its jurisdiction for failure to pay all or part of its operating permit fee and/or penalties thereon after ninety days past the due date for fee payment in an amount three times the source's total assessed fee.
- d. Other Penalties. The penalties authorized in Section 10.08.A.5.b and c of this Regulation are additional to and in no way prejudice the Agency's ability to exercise other civil and criminal remedies, including the authority to revoke a source's operating permit for failure to pay all or part of its operating permit fee.
- e. Facility Closure. Sources that permanently cease operations will be required to pay only a pro rata portion of the annual operating permit fee for the fiscal year in which they cease operations. The portion of the fee to be paid will be calculated by dividing the

number of calendar days that have passed in the relevant calendar year at the time the source ceases operations by the total of 365 calendar days, and multiplying the fraction thus derived by the fee that the source would have paid for the relevant calendar year, had it not ceased operations.

- f. Transfer in Ownership. Transfer in ownership of a source will not affect that source's obligation to pay operating permit fees. Any liability for fee payment, including payment of late payment and other penalties will survive any transfer in ownership of a source.
6. Development and Oversight Remittance by Local Authorities to Ecology
- a. Ecology will provide to the Agency a statement of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before December 31 of each year.
 - b. The Agency will remit to Ecology one-half of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before March 31 of each year and will remit to Ecology the balance of its share of Ecology's development and oversight costs on or before June 30 of each year.
- B. Air Operating Permit sources are not subject to fees under the Registration Program.

Section 10.10 Special Burning Permit Fees

[Statutory Authority RCW 70.94.6528]

- A. An application fee of fifty dollars (\$75.00) is due and payable at the time of submittal of a request for special burning permit. The application fee is non-refundable.
- B. An additional fee for inspection and oversight costs will be charged for each submittal of a request for special burning permit. The additional fee will be calculated based upon the volume of the material to be burned. The additional fee will not exceed eight dollars and fifty cents (\$8.50) per cubic yard or the adjusted amount according to Chapter 173-425 WAC.
- C. The additional fee will be due and payable within thirty (30) days of issuance of the special burning permit. Special burning permit fees will be due within thirty (30) days of issuance of the special burning permit.
- D. A late fee of twenty-five dollars (\$25.00) may be charged for special burning permit fees that have not been paid within thirty (30) days of issuance of the special burning permit. Failure to pay said fee within sixty (60) days of the issuance of the special burning permit may result in the commencement of a formal enforcement action.

Section 10.11 Agricultural Burning Permit Fees

- A. An application fee for an agricultural burning permit will be due and payable at the time of submittal of the application. Refunds may be issued by the Agency for acres or tons not burned under each permit provided the adjusted fee after subtracting refunds is no less than the minimum fee
- B. Permit Fee Schedule. The agricultural burning permit fee schedule established through Chapter 173-430 WAC applies in THE AGENCY.

ACRONYMS AND ABBREVIATIONS

ACM	Asbestos Containing Material
ARP.....	Application for Relief from Penalty
AWP	Alternate Work Plan
BACT	Best Available Control Technology
BART	Best Available Retrofit Technology
BCAA	Benton Clean Air Agency
Board	Benton Clean Air Agency Board of Directors
BTU	British Thermal Unit (unit of measure)
CEM.....	Continuous Emission Monitoring
CFR.....	U.S. Code of Federal Regulations
Ecology.....	Washington State Department of Ecology
ERC.....	Emission Recovery Credit
LAER.....	Lowest Achievable Emission Rate
MACT	Maximum Achievable Control Technology
NESHAP.....	National Emission Standards for Hazardous Air Pollutants
NOC.....	Notice of Construction
NIO.....	Notice of Intent to Install and Operate a Temporary Source
NOI.....	Notice of Intent to Demolish or Remove Asbestos
NOP.....	Notice of Penalty
NSPS.....	New Source Performance Standard
PCHB	Washington State Pollution Control Hearings Board
PSD.....	Prevention of Significant Deterioration
RACM.....	Regulated Asbestos Containing Material
RACT	Reasonably Available Control Technology
RCW	Revised Code of Washington
SEPA.....	State Environmental Policy Act
UGA.....	Urban Growth Area
USC.....	United States Code
WAC	Washington Administrative Code