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## ARTICLE 3

### Industrial Source Regulations

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**ADOPTED: 11-Dec-2014**

**AMENDED: 17-Aug-2018**

[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:

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

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:

$$VOC_{CT} = \frac{W_V}{V_M - V_W - V_{ES}}$$

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, which meet the following conditions:
  - i. The control system must be equipped with a fan which is capable of capturing all visible overspray;
  - ii. Emissions from the booth/area must be vented to the atmosphere through a vertical stack;
  - iii. 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;
  - iv. A higher stack/vent may be required if the Agency determines that it is necessary for compliance with WAC 173-400-040;
  - v. 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; and
  - vi. 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:

- i. 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.
  - i. 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.
  - ii. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

**Section 3.04 Standards for Marijuana Production and Marijuana Processing**

- A. Purpose.  
The production and processing of marijuana emits air contaminants. Section 3.04 establishes standards to minimize air contaminants from stationary sources that produce or process marijuana.
- B. Applicability.  
This section applies to all persons or entities having an active Washington State Liquor and Cannabis Board (LCB) license for marijuana production operations and marijuana processing operations in Benton County.
- C. Definitions.  
Unless a different meaning is clearly required by context, words and phrases used in this section will have the following meaning:
  1. "Control of environmental conditions" means modifying surroundings to facilitate plant growth, may include, but is not limited to; lighting, temperature, relative humidity, and carbon dioxide levels. For implementation of Section 3.04, watering plants and short term covering of plants for a portion of each day as needed for frost protection are not considered control of environmental conditions.
  2. "Housing unit" means a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building, and which have direct access from the outside of the building or through a common hall.
  3. "Indoor marijuana production and indoor marijuana processing" means production or processing occurring in a fully enclosed building that is permanently affixed to the ground, has permanent rigid walls, a roof that is permanent and non-retractable, and doors. The building is equipped to maintain control of environmental conditions. Hoop houses, temporary structures, or other similar structures are not considered indoor.
  4. "Marijuana" means all parts of the cannabis plant, as defined in Chapter 69.50 RCW as it now exists or as amended.
  5. "Processor (process, processing)" means LCB licensed operations that dry, cure, extract, compound, convert, package, and label usable marijuana, marijuana concentrates, and marijuana-infused products.
  6. "Producer (production, producing)" means LCB licensed operations that propagate, grow, harvest, and trim marijuana to be processed.
  7. "Public Place"- means that portion of any building used by and open to the public. A public place does not include a private residence. A public place also includes a lot, parcel, or plot of land that includes a building or structure thereon that is used by and open to the public.



8. "Responsible person" means any person who owns or controls property on which Section 3.04 is applicable.

D. Marijuana Odor.

With respect to odor, it shall be unlawful for any production or processing facility of marijuana to cause an odor that can be detected beyond the facilities property line. The agency may take enforcement action pursuant to chapter 70.94 RCW, under this section if the Control Officer or a duly authorized representative has documented the following:

1. The odor or can be readily smelled from a public place or the private property of another housing unit;
2. An affidavit from a person making a complaint that demonstrates that they have experienced the odor of marijuana so as to unreasonably interfere with their life and property. (The affidavit should describe or identify, to the extent possible, the location, duration, and offensiveness of the odor experienced by the complainant);
3. The source of the odor.

E. With respect to odor, the agency will determine whether or not a violation of Section 3.04 D has occurred based on its review of the information obtained during the investigation.

F. When determining whether to take formal enforcement action authorized in Section 3.04 D, the agency may consider written evidence provided by the person causing the odors which demonstrates to the satisfaction of the agency that all controls and operating practices to prevent or minimize odors to the greatest degree practicable are being employed. If the agency determines that all such efforts are being employed by the person causing the odors and that no additional control measures or alternate operating practices are appropriate, the agency may decline to pursue formal enforcement action.

G. Nothing in this section shall be construed to impair any cause of action or legal remedy of any person, or the public for injury or damages arising from the emission of any air contaminant in such place, manner or concentration as to constitute air pollution or a common law nuisance.

H. Requirements.

All persons or entities subject to the requirements of Section 3.04 must comply with the following:

1. Production and processing must occur indoors, as defined in 3.04(C), unless the operation is exempt under Section 3.04(M);
2. Indoor production and processing requirements:
  - a. Control equipment and facility design:
    - i. Operations must be equipped with air pollution control equipment that is properly sized for the air flow to be controlled. Air pollution control equipment may include, but is not limited to, carbon adsorption within the facility, carbon filtration on facility exhaust points, vertical exhaust stacks. Air pollution control equipment is not required for windows, doors, or other openings, provided these openings are kept closed except as needed for active ingress or egress; or
    - ii. Operations must be designed to prevent exhaust from production and processing operations directly to the outside; or
    - iii. Both.
  - b. Operations must meet the requirements of Section 3.04 (D).
3. Operation and maintenance plan. Air pollution control equipment must be operated and maintained in accordance with the manufacturers recommendations. An operation and

maintenance plan for the air pollution control equipment must be available on site. The plan must include written operation instructions and maintenance schedules. Record shall be kept of the dates and description of all maintenance and repair performed on the air pollution control equipment. Record must be kept on site for the previous 24 months and be provided to the agency upon request.

- I. Compliance with Other Laws and Regulations. Compliance with Regulation I, Article 3, Section 3.04, does not constitute an exemption from compliance with other Sections of Regulation I, or other laws or regulations.
- J. Producers, Processors and Responsible Persons. If there is a violation of Regulation I, Article 3, Section 3.04 D, a Notice of Violation may be issued to all producers and processors on the parcel, and all responsible persons.
- K. Compliance Schedule. All persons or entities subject to the requirements of Article 3, Section 3.04 must be in compliance with Section 3.04 requirements as follows:
  - 1. New producers and processors or expansion at existing producers and processors, that begin or expand operations after August 17, 2018, must be in full compliance with Section 3.04 requirements before production and/or processing begins.
- L. Any new marijuana production or processing facility must notify the agency by completing the proof of notification form found on [www.bentoncleanair.org](http://www.bentoncleanair.org).
- M. Exemptions.
  - 1. Existing marijuana producers and processors, in-operation prior to the Section 3.04 effective date August 17, 2018 are exempt from of Section 3.04 H. This exemption does not exclude them from the requirements of Section 3.04 D.
  - 2. Any existing marijuana producer or processor, in-operation prior to the section 3.04 effective date August 17, 2018 found to be in violation of Section 3.04 D, may be required to comply with Section 3.04 H within 180 days of receipt of the penalty from said violation or as defined by a compliance schedule agreed upon with the Benton Clean Air Agency.