



RULE-MAKING ORDER

R-103 (June 2004) (Implements RCW 34.05.360)

Agency: Benton Clean Air Authority

Permanent Rule
 Emergency Rule

Effective date of rule:

Permanent Rules

31 days after filing.
 Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

Immediately upon filing.
 Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose: Updating outdated references to WAC's and RCW's. Also making the document easier to read, clarifying language, adding definitions. A list of sources required to register has also been added.

Citation of existing rules affected by this order:

Repealed:
Amended:
Suspended:

Statutory authority for adoption: RCW 70.94

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 04/24/028 on November 23, 2004 (date).
Describe any changes other than editing from proposed to adopted version:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted: February 17, 2005

NAME (TYPE OR PRINT)
David A. Lauer

SIGNATURE

TITLE
Control Officer

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

MAR 10 2005

945

TIME _____ (AM) _____ (PM)

WSR 05-07-036

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____



REGULATION 1

of the
Benton Clean Air Authority

Effective 20-Mar-2005

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ARTICLE 1

Name, Short Title, and Policy

ADOPTED: 17-Feb-2005

EFFECTIVE: 20-Mar-2005

Section 1.01 Name of Authority

The name of this Air Pollution Control Authority, declared to be and directed to function as a single county authority with the boundaries of Benton County and activated by the Washington Clean Air Act, Revised Code of Washington (RCW) 70.94 as amended, shall be known as the BENTON CLEAN AIR AUTHORITY, hereinafter referred to as the BCAA, or the Authority.

Section 1.02 Short Title

This regulation of the BCAA shall be known and cited as REGULATION 1.

Section 1.03 Policy

- A. The BCAA adopts Regulation 1 to control the emissions of air contaminants from all sources within Benton County; to provide for the uniform administration and enforcement of this regulation; and to carry out the requirements and purposes of the U.S. Clean Air Act (42 USC. 7401 *et. seq.*) and the Washington State Clean Air Act (RCW 70.94).
- B. It is hereby declared to be the public policy of the BCAA to:
 1. Secure and maintain such levels of air quality that protect human health and safety, including the most sensitive members of the population;
 2. Secure compliance with the requirements of the federal clean air act;
 3. Prevent injury to plant and animal life and to property;
 4. Foster the comfort and convenience of its inhabitants;
 5. Promote the economic and social development of Benton County; and
 6. Facilitate the enjoyment of the natural attractions of Benton County.
- C. It is further the intent of Regulation 1 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. Wherever Regulation 1 constitutes a restatement of the requirements and purposes of RCW 70.94, it is the intent of the BCAA that Regulation 1 be interpreted in the same manner as the statute adopted by the Washington State Legislature. Any deviation from the statute, except where the statute allows BCAA to be more stringent, is intended for purposes of clarity.

ARTICLE 2
General Provisions

ADOPTED: 17-Feb-2005

EFFECTIVE: 20-Mar-2005

Section 2.01 Establishment of the Board of Directors

Reserved

Section 2.02 Powers and Duties of the BCAA

As per RCW 70.94.141, the BCAA shall be deemed a municipal corporation; have right to perpetual succession; adopt and use a seal; may sue and be sued in the name of the BCAA in all courts and in all proceedings; and, may receive, account for, and disburse funds, employ personnel, and acquire or dispose of any interest in real or personal property within or without the BCAA in the furtherance of its purposes.

Section 2.03 Powers and Duties of the Board of Directors

- A. The Board of Directors, hereinafter referred to as the Board, shall have all the powers and duties of Section 2.02 and of an activated air pollution control authority under RCW 70.94.081 and 70.94.141.
- B. Pursuant to the provisions of RCW 70.94, the Board shall:
 - 1. Establish such procedures and take such action as may be required to implement Regulation 1 consistent with federal, state, and local air pollution laws or regulations;.
 - 2. Take such 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 shall, with the Board's advice and approval, enforce the provisions of Regulation 1 and all ordinances, orders, resolutions, or rules and regulations of the BCAA pertinent to the control and prevention of air pollution in Benton County.
- C. The Board shall have the power to:
 - 1. Hold hearings relating to any aspect of, or matter in, the administration of Regulation 1 and in connection therewith, issue subpoenas to compel the attendance of witnesses and production of evidence, administer oaths and take the testimony of any person under oath;
 - 2. Adopt, amend and repeal its own ordinances, resolutions, rules, and regulations. Any adoption, amendment, or repeal of the Board's ordinances, resolutions, rules, and

regulations shall be made after due consideration at a public hearing held in accordance with RCW 42.30;

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 shall 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.

Section 2.04 Powers and Duties of the Control Officer

- A. The Control Officer and duly authorized representatives of the BCAA shall observe and enforce applicable federal, state, and local air pollution laws and regulations and all orders, ordinances, resolutions, or rules and regulations of the BCAA 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, shall 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 shall maintain appropriate records and submit reports as required by the Board, state agencies, and federal agencies.
- D. The Control Officer may engage, at the BCAA'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 BCAA shall 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 shall refuse entry or access to the Control Officer or duly authorized representatives of the BCAA who request entry for the purpose of inspection and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such inspection.
- F. If the Control Officer or a duly authorized representative of the BCAA 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 shall:
 - 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. Shall give a receipt to the owner or operator for the sample obtained.
- G. The Control Officer shall be empowered by the Board to sign official complaints, issue citations, initiate court suits, or use other legal means to enforce the provisions of Regulation 1.

Section 2.05 Confidential Information

- A. The owner, operator, or agent of the owner or operator submitting any information to the BCAA is responsible for clearly identifying information that is considered proprietary and confidential prior to submittal to the BCAA. Information submitted to the BCAA that has not been identified as confidential at the time of submittal may not be classified as confidential at a later date.
- B. Confidential information submitted to the BCAA by an owner, operator, or agent of the owner or operator, shall be stamped or clearly marked in red ink at the time of submittal. Such information shall be handled as confidential, and shall be maintained by the BCAA, to the extent that release of such information may provide unfair economic advantage or compromise processes, products, or formulations to competitors as provided under RCW 70.94.205. Such information shall be released to the public only after:
 - 1. Legal opinion by the BCAA's legal counsel; and
 - 2. Notice to the source of the intent to either release or deny the release of information.
- C. Records or other information certified as confidential shall be only for the confidential use of the BCAA as provided in RCW 70.94.205, provided that:
 - 1. The records or other information is related to processes or production and unique to the owner or operator, except ambient air quality data or emission data; or

2. The records or other information is likely to affect adversely the competitive position the source if released to the public or to a competitor.
- D. Emissions data furnished to or obtained by the BCAA shall be correlated with applicable emission limitations and other control measures and shall be available for public inspection during normal business hours at the office of the BCAA.

Section 2.06 Violations

- A. At least thirty (30) days prior to the commencement of any formal enforcement action under RCW 70.94.430 or RCW 70.94.431 the BCAA shall cause written notice to be served upon the alleged violator or violators. The notice:
1. Shall specify the provision of the federal, state, or local air pollution law or regulation alleged to be violated and the facts alleged to constitute a violation thereof;
 2. Shall offer to the alleged violator an opportunity to meet with the BCAA prior to the commencement of a formal enforcement action; and
 3. May include an order directing that necessary corrective action be taken within a reasonable time. In lieu of an order, the Board or Control Officer may require that the alleged violator appear before the Board for a hearing.
- B. Each act of commission or omission which procures, aids, or abets in the violation shall be considered a violation and be subject to the same penalty.
- C. In case of a continuing violation, whether or not knowingly committed, each day's continuance shall be a separate and distinct violation.

Section 2.07 Orders, Notices, Permits, and Determinations – Finalization, Appeals, Stays, and Judicial Review

- A. Any order, notice, permit, or determination issued by the Board or Control Officer shall become final upon receipt unless such order, notice, permit, or determination is appealed.
- B. Any order may be appealed exclusively to the PCHB within thirty (30) days after receipt as provided in RCW 43.21B.310 by filing a notice of appeal. Any notice of appeal filed with the PCHB shall be filed simultaneously with the BCAA.
- C. Any notice, permit, or determination may be appealed to the Board, Control Officer, or PCHB within thirty (30) days after receipt as provided in RCW 43.21B.310 by filing a notice of appeal. Any determination made by the Board as a result of an appeal to the Board may subsequently be appealed to the PCHB within thirty (30) days after receipt as provided in RCW 43.21B.310 by filing a notice of appeal. Any notice of appeal filed with the PCHB shall be filed simultaneously with the BCAA
- D. A notice of appeal shall contain the following:
1. The name, mailing address, telephone number and telefacsimile number (if available) of the appealing party, and of the representative, if any;
 2. Identification of the parties, by listing in the caption or otherwise. In every case, the agency whose decision is being appealed and the person to whom the decision is directed shall be named as parties;

3. A copy of the order, notice, permit, or determination being appealed, and if the order, notice, permit, or determination was preceded by an application, a copy of the application;
 4. A short and plain statement showing the grounds upon which the appealing party considers such order, notice, permit, or determination to be unjust or unlawful;
 5. A clear and concise statement of facts upon which an appealing party relies to sustain his or her grounds for appeal;
 6. The relief sought, including the specific nature and extent;
 7. A signature of the representative of the appealing party or the appealing party that constitutes certification that the signatory has read the notice of appeal; and
 8. Any other information or requirements under RCW 43.21B.310 or Washington Administrative Code (WAC) 371-08-340.
- E. The Board or Control Officer, in its discretion, may stay the effectiveness of a notice, order, permit, or determination during an appeal to the Board, Control Officer, or PCHB.
- F. Upon failure to comply with any final notice, order, permit, or determination of the Board or Control Officer, the attorney for the BCAA, upon request of the Board or Control Officer, may bring an action in Benton County Superior Court to obtain such relief as necessary.
- G. After the final decision and order of the PCHB has been received the BCAA and the appellant, any party aggrieved by the decision and order of the PCHB may appeal to Benton County Superior Court within thirty (30) days from the date of receipt of the final decision and order of the PCHB.
- H. Nothing in Regulation 1 shall prevent the Board or Control Officer from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

Section 2.08 Falsification of Statement or Document, Unlawful Alteration of Documents, Display of Documents and Their Removal, or Mutilation Prohibited

- A. No person shall willfully make a false or misleading statement to the Board, Control Officer, or duly authorized representative of the BCAA as to any matter within the jurisdiction of the Board.
- B. No person shall reproduce or alter or cause to be reproduced or altered any order, permit, registration certificate, or other paper issued by the BCAA if the purpose of such reproduction or alteration is to evade or violate any provision of federal, state, or local air pollution law or regulation.
- C. Any order, permit, or registration certificate required to be obtained by Regulation 1 shall be available on the premises designated on the order, permit, or certificate, unless otherwise authorized by the BCAA.
- D. In the event the BCAA requires a notice to be displayed, it shall be posted. No person shall mutilate, obstruct or remove any notice unless authorized to do so by the Board or Control Officer.

Section 2.09 Severability

If any phrase, clause, subsection or section of Regulation 1 is declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the Board would have enacted Regulation 1 without the phrase, clause, subsection or section so held unconstitutional or invalid and the remainder of Regulation 1 shall not be affected as a result of said part being held unconstitutional or invalid.

Section 2.10 Penalties and Penalty Procedures

A. Criminal Penalties

1. Any person who knowingly violates any of the provisions of RCW 70.94 or any order, permit, regulation, or resolution in force pursuant thereto, is guilty of a gross misdemeanor and upon conviction is subject to punishment by a fine of not more than ten thousand dollars (\$10,000.00), by imprisonment for not more than one (1) year, or by both for each separate violation.
2. Any person who negligently releases into the ambient air any air pollutant, other than in compliance with the terms of an applicable order, permit, or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm is guilty of a gross misdemeanor and upon conviction is subject to punishment by a fine of not more than ten thousand dollars (\$10,000.00), by imprisonment for not more than one (1) year, or by both.
3. Any person who knowingly releases into the ambient air any air pollutant, other than in compliance with the terms of an applicable order, permit, or emission limit, and who knows at the time that the release places another person in imminent danger of death or substantial bodily harm, is guilty of a class C felony and upon conviction is subject to punishment by a fine of not less than fifty thousand dollars (\$50,000.00), by imprisonment for not more than five (5) years, or by both.
4. Any person who knowingly fails to disclose a potential conflict of interest under RCW 70.94.100 is guilty of a gross misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than five thousand (\$5,000.00) dollars.

B. Other Penalties

1. Any person, who violates any of the provisions of RCW 70.94 or any regulation, ordinance, or resolution in force pursuant thereto, may incur a civil penalty in an amount not to exceed that provided by RCW 70.94 for each violation.
2. Any person, who fails to take action as specified by any notice, order, permit, or determination issued pursuant to RCW 70.94 or Regulation 1 is liable for a civil penalty in an amount not to exceed the penalty authorized by RCW 70.94 for each day of continued noncompliance.
3. Each act of commission or omission that procures, aids, or abets in the violation is a violation under the provisions of this section and subject to the same penalty.
4. In addition to other penalties provided by this section, the following additional penalties may be assessed:
 - a. Persons who knowingly underreport emissions or other information used to set fees shall be charged a penalty of three (3) times the fee.

- b. Registered sources that fail to pay registration fees after the ninety-first (91st) day after the due date
 - i. Shall be subject to a penalty of three (3) times the annual registration fee as per Section 10.05; and
 - ii. May be subject to the revocation of the registered source's order or permit.
- c. Persons who fail to pay fees or charges as required by Regulation 1 may be subject to formal enforcement actions, including penalties.

C. Penalty Procedures

1. Any civil penalty provided in RCW 70.94.430, 70.94.431, or 70.94.435 shall be imposed in writing, by a Notice of Penalty (NOP), either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the BCAA, describing the violation with reasonable particularity.
2. Within thirty (30) days after the NOP is received, the person incurring the penalty may submit an Application for Relief from Penalty (ARP) to the BCAA for the remission or mitigation of the penalty. Upon receipt of the application, the BCAA may remit or mitigate the penalty upon whatever terms the BCAA in its discretion deems proper. The BCAA may ascertain the facts regarding all ARPs in a reasonable manner under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty
3. Any penalty imposed by the BCAA may be appealed to the PCHB as provided in RCW 43.21B.310, if the appeal is filed with the PCHB and served on the BCAA thirty (30) days after the date of receipt by the person penalized in the NOP or thirty (30) days after the date of receipt of the Notice of Disposition of the ARP.
4. A penalty shall become due and payable on the later of:
 - a. Thirty (30) days after receipt of the notice imposing the penalty;
 - b. Thirty (30) days after receipt of the Notice of Disposition of the ARP, if such an application is made; or
 - c. Thirty (30) days after receipt of the notice of decision of the PCHB if the penalty is appealed.
5. If the amount of the civil penalty is not paid to the BCAA within thirty (30) days after it becomes due and payable, the BCAA may use any available method, including Benton County Superior Court, to recover the penalty. In all actions brought in the Benton County Superior Court for recovery of penalties hereunder, the procedure and rules of evidence shall be the same as in ordinary civil action.
6. To secure the penalty incurred under this section, this BCAA shall have a lien on any personal property operated or used in violation RCW 70.94 or of any order, rule, or regulation issued or adopted pursuant thereto, which shall be enforced as provided in RCW 60.36.050 and 60.10.023.
7. Penalties incurred but not paid shall accrue interest, beginning on the ninety-first (91st) day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If penalties are appealed, interest shall not begin to accrue until the thirty-first (31st) day following final resolution of the appeal.

8. All penalties recovered under this section by the BCAA are payable to the BCAA treasury and credited to its funds.

Section 2.11 Other Enforcement Actions

- A. The Board or Control Officer, after notice to such person and an opportunity to comply, may petition the Benton County Superior Court for a restraining order, temporary injunction, permanent injunction, or another appropriate order, as provided in RCW 70.94.425, whenever any person has engaged in, or is about to engage in, acts or practices which constitute, or will constitute, a violation of any provision of RCW 70.94 or of any order, rule, or regulation issued or adopted pursuant thereto.
- B. The Board or Control Officer may accept an assurance of discontinuance of any act or practice deemed in violation of RCW 70.94 or of any order, rule, or regulation issued or adopted pursuant thereto, from any person engaging in, or who has engaged in, such act or practice. Any such assurance shall specify a time limit during which such discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of RCW 70.94 or of any order, rule, or regulation issued or adopted pursuant thereto, which make the alleged act or practice unlawful for the purpose of securing any injunction or other relief from Benton County Superior Court, as provided in RCW 70.94.435.

ARTICLE 3

Reserved

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ARTICLE 4

Reserved

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ARTICLE 5

Outdoor Burning

ADOPTED: 17-Feb-2005

EFFECTIVE: 20-Mar-2005

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. A "burn day" is a day, as determined by the BCAA, during which outdoor burning may take place in areas where open burning is allowed. The length of the burn day shall be defined as the period from 9:00 AM until one hour before sunset. The BCAA shall make daily burn day decisions based on available meteorological information. The daily burn decision shall be provided daily through a burn day message line and/or through the local media.
- C. A "person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.
- D. An "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 Outdoor Burning Requirements

A. General Requirements

- 1. All outdoor burning shall be subject to the following:
 - a. The following materials shall 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 shall be obtained before burning the material;
 - d. No outdoor fire may be ignited:
 - iii. When the Benton County Fire Marshall has declared a ban on burning due to fire safety; or

- iv. 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. Any person responsible for outdoor burning that is detrimental to the health, safety, or welfare of any person, that causes damage to property or business, or that causes a nuisance, shall immediately extinguish the fire;
 - f. The use of an outdoor container, such as a "burn barrel", for burning, unless regulated under WAC 173-400-070(1), shall be prohibited throughout in Benton County;
 - g. A person capable of extinguishing the fire shall attend it at all times, and the fire shall 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, shall be obtained before starting an outdoor fire.
2. The BCAA shall approve with conditions, or deny, any outdoor burning permits as needed to comply with state and local air pollution rules and regulations. All permits shall 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 BCAA may also include conditions to comply with other state and local air pollution rules and regulations pertaining to outdoor burning.
3. Outdoor burning shall not be allowed on any construction or demolition site. However a special burning permit to demolish a structure may be issued for fire fighting instruction fires by fire protection districts.
4. Material, other than firewood, shall not be hauled or transferred from inside the UGA to an area outside the UGA for the purposes of burning.

B. Inside Urban Growth Areas

1. Residential and land clearing burning shall be prohibited inside all UGAs of Benton County, which include Kennewick, Richland, West Richland, Prosser, and Benton City.
2. A permit shall not be required to burn tumbleweeds that have been blown by the wind, if such burning can be conducted in accordance with the requirements of Section 5.02(A).
3. Fire fighting instruction fires to fight structural fires by fire protection districts inside UGAs shall require a written special burning permit.

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 5.02(A) and the following:
 - a. Before burning, the person responsible for the fire shall contact the BCAA to determine if it is a burn day;
 - b. Residential burns shall contain only material that was generated at the residence where the burn occurs;

- c. The pile shall 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 shall be burned, and each pile shall be extinguished before lighting another; and
 - e. No outdoor fire shall be permitted within five hundred (500) feet of forest slash.
2. All land clearing burning outside of the UGA shall require a written special burning permit.
 3. The BCAA may issue a special burning permit to fire protection districts for fire fighting instruction fires, unless such permits are exempted under Section 5.03(C).

Section 5.03 Special Burning Permits

- A. A request for special burning permit application for a special burn permit shall be submitted at least five (5) working days before the proposed burning dates. Special burning permits shall be subject to a fee as described in Article 10 and payable at the time of application. Payment of the application fee shall not guarantee the applicant that a special burning permit will be approved.
- B. Any special burning permit issued by the BCAA shall specify restrictions and conditions on a case-by-case basis.
- C. Special burning permits shall be valid for a period not to exceed one (1) year.
- D. A special burning permit shall not be required by fire protection districts for fire fighting instruction fires for training to fight:
 1. Structural fires by fire protection districts outside the UGAs provided that written notification shall be filed with the BCAA 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).

ARTICLE 6

Agricultural Burning

ADOPTED: 17-Feb-2005

EFFECTIVE: 20-Mar-2005

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. An "agricultural burn day" is a day, as determined by the BCAA, during which permitted agricultural burning may take place in areas where agricultural burning is allowed. The length of the burn day shall be defined as the period from 9:00 AM until one hour before sunset. The BCAA shall make daily burn day decisions based on available meteorological information. The daily burn decision shall be provided daily through a burn day message line and/or through the local media.
- C. "Incidental agricultural burning" is the burning of vegetative debris that is non-essential to the propagation of a crop and is any of the following
 - 1. Orchard prunings;
 - 2. Vegetative debris along fence lines or irrigation or drainage ditches; or
 - 3. Vegetative debris blown by the wind.
- D. A "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 BCAA. Agricultural burning permits shall be subject to a fee as described in Article 10 and payable at the time of application.
 - 2. Agricultural burning shall be allowed only on designated agricultural burn days.
 - 3. It shall be the responsibility of the person conducting agricultural burning to be informed of any additional fire safety rules as determined by the Benton County Fire Marshall.
- B. Agricultural Burning Permit Not Required
 - 1. Incidental agricultural burning, as defined in Section 6.01(C), shall be allowed without obtaining an agricultural burning permit from the BCAA and on days that are not agricultural burn days, except:

- a. When the Benton County Fire Marshall has declared a ban on burning due to fire safety; or
- b. 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.

ARTICLE 7

Solid Fuel Burning Device

ADOPTED: 17-Feb-2005

EFFECTIVE: 20-Mar-2005

Section 7.01 Definitions

- A. Definitions of all terms in this article, unless otherwise defined, are as defined in WAC 173-433-030.
- B. A "person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.
- C. "Solid fuel burning 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 Section 7.02(C). 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 criteria in WAC 173-433-030(11).

Section 7.02 Solid Fuel Burning Device, Prohibitions

- A. Within Benton County, a person shall not advertise to sell, offer to sell, sell, bargain, exchange, give away, or install:
 - 1. Any uncertified solid fuel burning device that does not meet the requirements of WAC 173-433-100(3);
 - 2. Any factory built fireplace that does not meet the 1990 EPA standards for woodstoves or equivalent standard established by the Washington State Building Code Council by rule; or
 - 3. Any non-exempt solid fuel burning device.
- B. The use of any solid fuel burning device shall be restricted as per the following:
 - 1. During a first stage impaired air quality conditions, declared under RCW 70.94.715, residences and commercial establishments with an alternate heat source other than the solid fuel burning device, shall not operate the solid fuel burning device, except if the device is:
 - a. A non-affected pellet stove;
 - b. An EPA-certified woodstove as per WAC 173-433-030; or

- c. A woodstove meeting the Oregon Department of Environmental Quality Phase 2 emissions standards
 2. During second stage impaired air quality conditions, or during a forecast, alert, warning, or emergency air pollution episode, declared under RCW 70.94.715, residences and commercial establishments with an alternate heat source other than the solid fuel burning device, shall not operate any solid fuel burning device.
- C. A person shall not cause or allow any of the following materials to be burned in a solid fuel burning device:
1. Garbage;
 2. Treated wood, defined as wood of any species that has been chemically impregnated, painted, or similarly modified to prevent weathering and deterioration;
 3. Plastic and plastic products;
 4. Rubber products;
 5. Animal carcasses;
 6. Asphaltic products;
 7. Waste petroleum products;
 8. Paints and chemicals; or
 9. 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: 20-Mar-2005

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 BCAA 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 BCAA 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 BCAA 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 BCAA, concerning proper residential asbestos removal. Any questions pertaining to this material shall be addressed by the BCAA.

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 Emergency 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 BCAA.

ARTICLE 9

Source Registration

ADOPTED: 17-Feb-2005

EFFECTIVE: 20-Mar-2005

Section 9.01 Source Registration Required

The BCAA regulates the sources of air contaminants in Benton County under the authority of RCW 70.94.151. Any source under Section 9.04, whether publicly or privately owned, shall register with the BCAA unless exempted under Section 9.06 of this Article.

Section 9.02 Source Registration Program Purpose and Components

- A. Program purpose. 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 review, including engineering analysis for accuracy and currentness 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 shall register

the source emission unit with the BCAA. The owner or operator shall make reports containing information as may be required by the BCAA 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 shall be provided on forms supplied by the BCAA and shall be completed and returned within the time specified on the form. Emission units within the facility shall be listed separately unless the BCAA 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 shall sign the registration form for each source. The owner or operator of the source shall be responsible for notifying the BCAA 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 shall maintain an operation and maintenance plan for process and control equipment. The plan shall reflect good industrial practice and shall 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 shall be reviewed and updated by the source owner or operator at least annually. A copy of the plan shall be made available to the BCAA upon request.
- E. Report of closure. A report of closure shall be filed with the BCAA 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 shall report to the BCAA within ninety (90) days of any change of ownership or change in operator.

Section 9.04 Source Registration Source List

The following sources shall register with the BCAA:

- A. Any source classification listed below:
 - 1. Abrasive blasting operation (WAC 173-460), except portable blasting operations operating at a construction site, or at a site for less than thirty (30) days in any running twelve (12) month period and operations that are inside a building and any associated air pollution control equipment that exhausts inside of the building;
 - 2. Adhesive manufacturing operations;
 - 3. Agricultural chemical operations or soil amendment operations – including manufacturing, mixing, packaging, concentrators, and/or other activities;
 - 4. Agricultural drying and dehydrating operations;
 - 5. Asphalt and asphalt products production operations;
 - 6. Brick and clay manufacturing operations – including tiles and ceramics;

7. Cattle feedlots with operational facilities which have an inventory of one thousand or more cattle in operation between June 1 and October 1, where vegetation forage growth is not sustained over the majority of the lot during the normal growing season;
8. Chemical manufacturing operations;
9. Coffee roasting operations;
10. Composting operations – including commercial, industrial and municipal, but exempting residential composting activities;
11. Concrete product manufacturing operations;
12. Concrete manufacturing operations, ready mix and premix;
13. Crematoria – including human and animal crematoria;
14. Dry cleaning operations using solvents emitting VOCs or toxic air pollutants;
15. Flexible polyurethane foam, polyester resin, and styrene production operations;
16. Flexible vinyl and urethane coating and printing operations;
17. Gasoline dispensing facilities, bulk gasoline loading terminals, or bulk gasoline plants;
18. Grain handling facilities – including seed, animal feed, legume, and flour processing operations;
19. Hay cubing and pelletizer operations;
20. Hazardous waste treatment and disposal facilities;
21. Ink manufacturers;
22. Insulation and insulation fiber manufacturing;
23. Landfills, active and inactive – including covers, gas collections systems or flares;
24. Materials handling and transfer facilities that generate particulate matter – including pneumatic conveying, cyclones, baghouses, and industrial housekeeping vacuuming systems that exhaust to the atmosphere;
25. Metal casting facilities and foundries, ferrous and nonferrous;
26. Metal plating and anodizing operations;
27. Metallic and nonmetallic mineral processing plants – including rock crushing, sand, and gravel mixing operations;
28. Metallurgical and mineralogical processing operations;
29. Mills – including lumber, plywood, shake, shingle, woodchip, veneer operations, dry kilns, pulpwood insulating board, or any combination thereof;
30. Mills – including grain, seed, feed, flour production, and related activities;
31. Mills – including cabinet works, casket works, furniture, wood by-products, and other wood product manufacturing operations;
32. Natural gas transmission and distribution;
33. Paper manufacturing operations, except kraft and sulfite pulp mills;
34. Petroleum refineries;

35. Pharmaceutical production operations;
 36. Plastics and fiberglass fabrication – including gelcoat, polyester resin, or vinyl ester coating operations;
 37. Refuse systems – including landfills with gas collection systems and/or flares, hazardous waste treatment, storage, and disposal facilities,; and wastewater treatment plants other than private and publicly owned treatment works,;
 38. Rendering facilities;
 39. Semi-conductor manufacturing;
 40. Soil and ground water remediation projects;
 41. Surface coating operations – including automotive, metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper and other substrates;
 42. Surface coating manufacturers;
 43. Synthetic fiber production operations;
 44. Synthetic organic chemical manufacturing;
 45. Tire recapping operations;
 46. Wastewater treatment plants – including private and publicly owned treatment works with a rated capacity of more than 1 million gallons per day;
- B. Any source that owns or operates any of the following equipment:
1. Boilers, all gas fired boilers above ten (10) million BTU/hr input;
 2. Boilers, all solid and liquid fuel burning boilers with the exception of those utilized for residential heating;
 3. Chemical evaporators or concentrators;
 4. Flares utilized to combust any gaseous material;
 5. Fuel burning equipment – including, but not limited to boilers, building and process heating units (external combustion) with per unit heat inputs of equal to or greater than any of the following:
 - a. 500,000 BTU/hr using coal or other solid fuels with a sulfur content of 0.5% or less;
 - b. 500,000 BTU/hr using waste or used oil meeting specifications in RCW 70.94.610;
 - c. 1,000,000 BTU/hr using kerosene, fuel oil, or any other liquid fuel, except used or waste oil;
 - d. 4,000,000 BTU/hr using gaseous fuels;
 - e. 400,000 BTU/hr using wood, wood waste, or paper.
 6. Graphic art systems – including lithographic and screen printing operations;
 7. Incinerators and combustion units
 - a. Commercial and industrial solid waste incineration units, defined as per WAC 173-400-050(4);

- b. Small municipal waste combustion units, defined as per WAC 173-400-050(5)
 - c. Wood waste incinerators;
 - d. Any other solid, liquid, or gaseous waste incinerators;
8. Stationary internal combustion engines rated at 500 horsepower or greater – including standby and backup operations
 9. Organic vapor collection systems within commercial or industrial facilities;
 10. Ovens/furnaces, kilns and curing, burnout – including, but not limited to, ovens/furnaces that heat clean automotive parts, paint hooks, electric motors, etc.;
 11. Degreasing and solvent cleaners, not subject to 40 CFR 63 Subpart T – including vapor, cold, open top, and conveyor cleaners;
 12. Sterilizing operations – including ethylene oxide (EtO) and hydrogen peroxide;
 13. Storage tanks for organic liquids within commercial or industrial facilities with capacities of twenty thousand (20,000) gallons or greater;
 14. Utilities consisting of a combination of electric and natural gas.
- C. Any source that has a potential to emit any pollutant equal to or greater than the following:
1. 5.0 tons/yr of carbon monoxide (CO);
 2. 2.0 tons/yr of nitrogen oxides (NO_x);
 3. 2.0 tons/yr of sulfur dioxide (SO₂);
 4. 1.25 tons/yr of particulate matter (PM or TSP);
 5. 0.75 tons/yr of fine particulate matter (PM₁₀);
 6. 2.0 tons/yr of volatile organic compounds (VOC);
 7. 0.005 tons/yr of lead.
- D. Any source subject to a federally-enforceable emission limit under a Synthetic Minor Order.
- E. Any source that is required to report periodically to demonstrate non-applicability to EPA requirements under Sections 111 or 112 of Federal Clean Air Act.
- F. Any category of stationary source subject to a new source performance standard (NSPS) under 40 CFR Part 60, other than Subpart AAA (Standards of Performance for New Residential Wood Heaters).
- G. Any source subject to a National Emission Standard for Hazardous Air Pollutants (NESHAP) under 40 CFR Part 61, other than Subpart M (National Emission Standard for Asbestos).
- H. Any source subject to a National Emission Standard for Hazardous Air Pollutants for Source Categories (Maximum Achievable Control Technology (MACT) standard) under 40 CFR Part 63.
- I. Any source, stationary source or emission unit with an emission rate defined as "significant" under WAC 173-400-112 or 173-400-113, as applicable.

- J. Any source that has a potential to emit toxic air pollutants as defined in WAC 173-460-020, which exceeds any small quantity emission rates under WAC 173-460-080(2)(e).
- K. Any other source determined to be registrable by the BCAA.

Section 9.05 Registered Source Classification

- A. Gasoline Facilities.
 - 1. Gasoline dispensing facilities (gas stations) using Stage I or Stage II vapor recovery systems, as defined in WAC 173-491-020(9)
 - 2. Bulk gasoline plants, as defined in WAC 173-491-020(2)
 - 3. Gasoline loading terminals, as defined in WAC 173-491-02(10)
- B. Class 1. Facilities and sources whose actual annual emissions are less than the following shall 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)
 - 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 and 173-460-160. Facilities and sources whose actual emissions are less than the following shall 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 shall be classified as Class 1 Toxic Sources.
- D. Class 2. Sources whose actual annual emissions are greater than that listed in Section 9.03(B), but less than one hundred (100) tons/yr of CO, NO_x, SO₂, TSP, PM₁₀, VOCs, or lead, shall be classified as Class 2 Sources.
- E. Class 2 Toxic Source. Toxic air pollutants are those listed in WAC 173-460-150 and 173-460-160. Sources whose actual emissions are greater than that listed in Section 9.03(C), 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, shall be classified as Class 2 Toxic Sources:
- F. Synthetic Minor Source. Sources that have requested and received a federally enforceable emissions limit to limit 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.

Section 9.06 Registered Source, Exemptions

Unless listed in Section 9.04, the following sources shall be exempt from registering with the BCAA:

- A. Any source that has a potential to emit any pollutant less than the following:
 - 1. 5.0 tons/yr of carbon monoxide;
 - 2. 2.0 tons/yr of nitrogen oxides;
 - 3. 2.0 tons/yr of sulfur dioxide;
 - 4. 1.25 tons/yr of particulate matter;
 - 5. 0.75 tons/yr of fine particulate matter (PM₁₀);
 - 6. 2.0 tons/yr of volatile organic compounds; or
 - 7. 0.005 tons/yr of lead.
- B. Any grain warehouse or grain elevator that meets the requirements of RCW 70.94.151(3) or WAC 173-400-102(5)
- C. Any source that is a major source as defined under Section 112 of the Federal Clean Air Act, RCW 70.94.030(17), or WAC 173-401-200.
- D. Any other source determined to be non-registrable by the Board or Control Officer.

ARTICLE 10
Fees and Charges

ADOPTED: 17-Feb-2005

EFFECTIVE: 20-Mar-2005

Section 10.01 Fees and Charges Required

- A. Unless otherwise provided, any fee assessed by the BCAA shall 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.

Section 10.02 Fees Otherwise Provided

All fees and charges provided for in this Article shall be in addition to fees otherwise provided for or required to be paid by Regulation 1, provided the Control Officer shall waive 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 Regulation 1.

Section 10.03 Fee Waiver, Indigence

Except for fees required under Section 10.09, the Control Officer shall waive payment of all or a portion of any fee or service charge required by this Article to be paid upon a showing deemed sufficient by the Control Officer that the permit or service requested is necessary and payment of the fee would cause hardship upon the applicant. An applicant may apply for a fee waiver by filing a Fee Waiver due to Indigence Request Form supplied by the BCAA.

Section 10.04 General Administrative Fees

- A. Administrative fees shall be due and payable at the time service is rendered, unless otherwise specified by BCAA.
 - 1. A fee of fifteen cents (\$0.15) per page shall be charged for photocopies.
 - 2. A fee of twenty dollars (\$20.00) per hour shall be charged for research time for requests covering more than one-hour of staff time.
 - 3. A fee of ten dollars (\$10.00) shall be charged per copy of audio or video materials.
 - 4. The actual cost of postage or shipping shall be charged for all material requested to be mailed.

- B. For other administrative services requested and performed by BCAA staff persons that are not provided to the public generally, the Control Officer shall determine such charge as reasonably reimburses the BCAA for time and materials expended in providing the service.

Section 10.05 Registered Source Fees

- A. The BCAA shall 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 shall not exceed the cost of administering the registration program. The Board shall review the registration program on an annual basis.
- B. All air contaminant sources required by Section 9.04 or 9.05 to be registered are subject to the following fees:
1. Class 1 and Class 1 Toxic sources shall pay an annual registration fee of:
 - a. A base fee of two hundred dollars (\$200.00);
 - b. Ten dollars (\$10.00) per ton of criteria pollutant emitted;
 - c. One hundred dollars (\$100.00) per ton of toxic air pollutant emitted; and
 - d. Fifteen (\$15.00) dollars per emission point.
 2. Class 2, Class 2 Toxic, and Synthetic Minor sources shall pay an annual registration fee of:
 - a. A base fee of six hundred dollars (\$600.00);
 - b. Ten dollars (\$10.00) per ton of criteria pollutant emitted;
 - c. One hundred dollars (\$100.00) per ton of toxic air pollutant emitted; and
 - d. Fifteen (\$15.00) dollars per emission point.
 3. Gasoline facilities shall pay an annual registration fee of:
 - a. Gasoline Loading Terminals: one thousand dollars (\$1,000.00) plus ten dollars (\$10.00) per ton of pollutant emitted;
 - b. Bulk Gasoline Plants: four hundred dollars (\$400.00) plus ten dollars (\$10.00) per ton of pollutant emitted; and
 - c. Gasoline Dispensing Facilities:
 - i. Throughput of less than five hundred thousand (500,000) gallons/yr, the fee shall be one hundred fifty dollars (\$150.00);
 - ii. Throughput of five hundred thousand (500,000) gallons/yr, but less than 1.5 million gallons/yr, the fee shall be four hundred fifty dollars (\$450.00); and
 - iii. Throughput greater than 1.5 million gallons/yr, the fee shall be \$900.00.
 - d. Once classified, a gasoline dispensing facility shall remain in a higher throughput classification for a period of two (2) consecutive years before reassignment to a lower classification.
- C. Fee Payment
1. Fee Payment. The annual registration fee shall be due and payable on February 28 of each year, unless otherwise specified in writing to the source by the BCAA.

2. Late Payment of Fees. A late fee shall be charged to a source for late payment of all or part of its annual registration fee at the following rates:
 - a. Ten percent (10%) of the annual registration fee for payment received up to the thirtieth (30th) day past the due date;
 - b. Fifteen percent (15%) of the annual registration fee for payment received between the thirty-first (31st) day and the sixtieth (60th) day past the due date; and
 - c. Twenty-five percent (25%) of the annual registration fee for payment received between the sixty-first day (61st) and the ninetieth (90th) day past the due date.
 - d. Failure to pay all or part of an annual registration fee after the ninety-first (91st) day past the due date may result in the commencement of a formal enforcement action.
3. Transfer in Ownership. Transfer in ownership of a source shall not affect that source's obligation to pay registration fees. Any liability for fee payment, including payment of late payment and other penalties shall survive any transfer in ownership of a source.

Section 10.06 Fees for Application for Notice of Construction (NOC) and Application for Notice of Intent to Install and Operate a Temporary Source (NIO)

- A. NOC or NIO Application Filing Fee. An application filing fee shall be due and payable at the time of filing the NOC or NIO application. The filing fee is non-refundable.
 1. Permanent stationary source. The filing fee shall be one hundred fifty dollars (\$150.00)
 2. Temporary or portable source. The filing fee shall be four hundred dollars (\$400.00).
 3. Relocation of a temporary or portable or source. The filing fee shall be two hundred dollars (\$200.00) and shall be charged each time the source relocates within the boundaries of Benton County.
- B. NOC or NIO Engineering Examination and Inspection Fee. An examination and inspection fee shall be charged according to Table 10-1. The engineering and inspection fee shall be due and payable at the time of filing the NOC or NIO, unless otherwise specified to the applicant by the BCAA.
- C. Additional Fees. Additional fees may be charged according to Table 10-2. The additional fees shall be due and payable at the time of filing the NOC or NIO, unless otherwise specified to the applicant by the BCAA.
- D. Fee amounts in Table 10-1 and 10-2 listed as "Actual" are based upon the BCAA's actual cost to complete a review or task and shall be determined using the actual or direct hours expended completing the specific review or task and the corresponding hourly rate of each BCAA staff person directly involved. The following provisions shall apply:
 1. Actual hours used in determining the amount of a fee shall be recorded on a daily basis by each BCAA staff person directly involved in completing the specific task;
 2. Time accrued shall be accounted to the nearest fifteen (15) minutes;
 3. Current BCAA staff person salary and overhead rates shall be used when calculating fees; and,

4. The bill issued for any fee based on the BCAA's actual cost shall indicate the total hours expended and the hourly cost rates that were used to determine the fee.
- E. If an NOC or NIO applicability determination fee is received by the BCAA and an NOC or NIO is determined not to be required, the Engineering Examination and Inspection Fee shall be waived.
- F. Any NOC or NIO application received by the BCAA without the accompanying fee shall be rejected and returned to sender. Such action shall not constitute a determination of completeness or incompleteness as per WAC 173-400-110.

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 WAC 197-11 is required, in association with an NOC or a NIO, the applicant shall pay a review fee of the greater of:
 1. One-hundred dollars (\$100.00), due and payable at the time of submittal; or
 2. Actual costs to complete the review or task and shall be determined using the actual or direct hours expended completing the specific review and the corresponding hourly rate of each BCAA staff person directly involved. Actual costs shall be billed by the BCAA 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. The additional fees shall be due and payable at the time of filing, unless otherwise specified to the applicant by the BCAA.

Section 10.08 Asbestos Fees

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

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)		Gasoline Dispensing Facilities	
5 or less.....	\$200	Stage I	\$300
Greater than 5 to 10	\$250	Stage II	\$300
Greater than 10 to 30	\$350	Stage I and II Combined	\$500
Greater than 30 to 50	\$450	Toxics review for gasoline facility	\$1,500
Greater than 50 to 100	\$650	Spray Painting (per booth).....	\$300
Greater than 100 to 250	\$1,400	Dry Cleaner (per machine).....	\$300
Greater than 250 to 500	\$2,500	Coffee Roaster	\$500
Greater than 500	\$3,500	Asphalt Plant, Cement Plant, or Rock Crushing Plant (Non-Temporary)	\$1,000
Fuel change or new fuel.....	½ new installation fee	Soil Thermal Desorption Unit	
Process Equipment, Air Pollution Control Device, and/or Uncontrolled Process Discharge (ft³/min)		Initial	\$2,000
50 or less.....	\$300	Relocation of Unit	\$700
Greater than 50 to 5,000	\$400	Odor Source	\$350
Greater than 5,000 to 20,000	\$500	Composting Facility	Actual
Greater than 20,000 to 50,000	\$600	Landfill Gas System	Actual
Greater than 50,000 to 100,000	\$700	Soil and Groundwater Remediation.....	Actual
Greater than 100,000 to 250,000	\$1,000	All other sources not listed	
Greater than 250,000 to 500,000	\$2,000greater of \$500 or Actual	
Greater than 500,000	\$4,000		
Refuse Burning Equip (tons/day)			
5 or less.....	\$1,000		
Greater than 5 to 12	\$2,000		
Greater than 12 to 250	\$6,000		
Greater than 250	\$12,000		
Other Incinerators (pounds/hr)			
100 or less.....	\$150		
Greater than 100 to 200	\$300		
Greater than 200 to 500	\$600		
Greater than 500 to 1000	\$1,200		
Greater than 1000	\$1,500		
Storage Tanks (gal)			
10,000 or less.....	\$300		
Greater than 10,000 to 40,000	\$500		
Greater than 40,000	\$1,000		

Table 10-2: Additional Fees

CATEGORY	FEE	CATEGORY	FEE
Public Noticing	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 WAC 173-460		Synthetic Minor Determination.....	Actual
Review of source supplied ASIL	\$300	Major Source, Major Modification, or PSD Thresholds	Actual
Review of source supplied risk analysis.....	\$1000	Emission Units subject to NSPS or NESHAP (except residential woodstoves, heaters, asbestos renovation or demolition and PCE dry cleaning)	Actual
BCAA conducted screening analysis	Actual	Construction or Reconstruction of a Major Source of Hazardous Air Pollutants.....	Actual
NOC/NIO Application Assistance	Actual	Each CEM or Alternate Monitoring Device	Actual
NOC/NIO Applicability Determination	Actual	Each Source Test Required in NOC.....	Actual
NOC-CEM or Alternate Monitoring Device Installed.....	Actual	Opacity/Gain Loading Correlation	Actual
SEPA Threshold Determination (lead agency).....	Actual	Bubble Application	Actual
Environmental Impact Statement Review.....	Actual	Netting Analysis.....	Actual
NOC Order of Approval Modification	lesser of ½ NOC/NIO fee or \$350		
RACT/BACT/MACT/BART/LAER Determination	Actual		
Emission Offset Analysis	Actual		
Emission Reduction Credit (ERC) Application.....	Actual		

Table 10-3: Asbestos Fees

Asbestos Projects at Residential Units	
Activity	Fee
Demolition	\$10.00
Renovation: Any amount in lin. ft or ft ²	\$10.00
Demolition or Renovation Amendment	\$25.00
Emergency Renovation Operation	\$50.00
Alternate Removal Methods	Two (2) times renovation fee

Asbestos Projects at Facilities	
Activity	Fee
Demolition	\$10.00
Renovation: 10 to 259 lin. ft or 48 to 159 ft ²	\$125.00
260 to 999 lin. ft or 160 to 4,999 ft ²	\$250.00
1,000 to 9,999 lin. ft or 5,000 to 49,999 ft ²	\$500.00
Over 10,000 lin. ft or Over 50,000 ft ²	\$1,500.00
Annual Renovation	\$1,500.00
Demolition or Renovation Amendment	\$50.00
Emergency Renovation Operation	Two (2) times renovation fee
Alternate Removal Methods	Two (2) times renovation fee

Section 10.09 Title 5 Air Operating Permit Fees

All eligible sources under WAC 173-401 shall be subject to the annual fees described in this section.

A. Permanent annual fee determination and certification

1. Fee Determination

- a. Fee Determination. The BCAA shall 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 shall be sufficient to cover all permit administration costs. The BCAA shall also collect its jurisdiction's share of Ecology's development and oversight costs. The fee schedule shall differentiate as separate line items the BCAA's and Ecology's fees. Opportunities for public participation shall be afforded throughout the fee determination process, as provided in Section 10.08(A)(3)(a).
- b. Fee Eligible Activities. The costs of permit administration and development and oversight activities are fee eligible.
 - i. Permit Administration. Permit administration costs are those incurred by BCAA 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.
- ii. 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).
- c. Workload Analysis.
 - i. The BCAA shall conduct an annual workload analysis projecting resource requirements for the purpose of facilitating budget preparation for permit administration. The workload analysis shall include resource requirements for both the direct and indirect costs of the permit administration activities in Section 10.08(A)(1)(b)(i).
 - ii. 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).
 - d. Budget Development. The BCAA shall annually prepare an operating permit program budget. The budget shall be based on the resource requirements identified in an annual workload analysis and shall take into account the projected fund balance at the start of the calendar year. The BCAA shall publish a draft budget for the following calendar year on or before May 31 and shall provide opportunity for public comment thereon in accordance with 10.08(A)(3)(a). The BCAA shall publish a final budget for the following calendar year on or before June 30.

e. Allocation Methodology.

- i. Permit Administration Costs. The BCAA shall allocate its permit administration costs and its share of Ecology's development and oversight costs among the permit program sources for whom 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 shall be determined based on the annual emissions data during the most recent calendar year for which data is available. Each of the three tiers shall be equally weighted.
 - ii. Ecology Development and Oversight Costs. Ecology will allocate its development and oversight costs among all permitting authorities, including the BCAA, 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 BCAA shall 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 shall be based on the information contained in the final source data statements for each year; the final source data statements shall be issued after opportunity for petition and review has been afforded in accordance with Section 10.08(A)(4).

2. Fee Collection - Ecology and BCAA.

- a. Collection from Sources. The BCAA, as a delegated local authority, shall collect the fees from the permit program sources under its jurisdiction.
 - i. Permit Administration Costs. The BCAA shall collect from permit program sources under its jurisdiction fees sufficient in the aggregate to cover its permit administration costs.
 - ii. Ecology Development and Oversight Costs. The BCAA shall 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.
 - i. All receipts from fees collected by the BCAA, as a delegated local authority, from permit program sources pursuant to RCW 70.94.152(1), and RCW 70.94.161, Section 6 of Chapter 252, Laws of 1993, and Section 8 of Chapter 252, Laws of 1993 shall be deposited in the dedicated accounts of its treasury. Expenditures from these dedicated accounts will be used only for the activities described in RCW 70.94.152(1), and RCW 70.94.161, Section 6 of Chapter 252, Laws of 1993, and Section 8 of Chapter 252, Laws of 1993.
 - ii. All receipts from fees collected by BCAA on behalf of Ecology from permit program sources pursuant to RCW 70.94.152(1), and RCW 70.94.161,

Section 6 of Chapter 252, Laws of 1993, and Section 8 of Chapter 252, Laws of 1993 shall be deposited in the air operating permit account created under RCW 70.94.015. Expenditures from the air operating permit account may be used only for the activities described in RCW 70.94.152(1), and RCW 70.94.161, Section 6 of Chapter 252, Laws of 1993, and Section 8 of Chapter 252, Laws of 1993.

3. Accountability

- a. Public Participation During Fee Determination Process. The BCAA shall provide for public participation in the fee determination process described under 10.08(A)(1), which provision shall include but not be limited to the following:
 - i. The BCAA shall provide opportunity for public review of and comment on:
 - (A) each annual workload analysis;
 - (B) each annual budget; and
 - (C) each annual fee schedule
 - ii. The BCAA shall 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.
 - iii. The BCAA shall make available for public inspection and to those requesting opportunity for review copies of its draft:
 - (A) annual workload analysis on or before March 31.
 - (B) annual budget on or before May 31.
 - (C) annual fee schedule on or before December 31.
 - iv. The BCAA shall 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 shall run from the date of publication of notice in the Permit Register as provided in Section 10.08(A)(3)(a)(ii).
- b. Tracking of Revenues, Time and Expenditures.
 - i. Revenues. The BCAA shall track revenues on a source-specific basis.
 - ii. Time and Expenditures. The BCAA shall 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;
 - (H) technical support.

- iii. Use of Information Obtained from Tracking Revenues, Time and Expenditures. The BCAA shall 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 10.08 (A)(1)(d).
 - iv. The information obtained from tracking revenues, time, and expenditures shall 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 shall be conducted in order to evaluate Ecology's and the BCAA's operating permit program administration, as follows:
- i. Fiscal Audits. The BCAA shall contract with the State Auditor to perform a standard fiscal audit of its operating permit program every other year.
 - ii. Annual Routine Performance Audits. The BCAA shall be subject to annual routine performance audits, except that the routine audit shall be incorporated into the extensive performance audit, conducted pursuant to Section 10.08(A)(3)(c)(v) in each year during which an extensive performance is conducted. Ecology shall issue guidance regarding the content of the routine performance audits and shall conduct the BCAA's audits.
 - iii. Annual Random Individual Permit Review. One permit issued by the BCAA shall be subject to review in conjunction with the annual routine performance. The permit to be reviewed shall be selected at random. Ecology shall issue guidance regarding the content of the random individual permit review and shall conduct the BCAA's review.
 - iv. Periodic Extensive Performance Audits. The BCAA shall be subject to extensive performance audits every five years. In addition, the BCAA may be subject to an extensive performance audit more frequently under the conditions of Section 10.08(A)(3)(c)(v). Ecology shall issue guidance regarding the content of the extensive performance audits and shall conduct the audits of this BCAA.
 - v. 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 BCAA is inadequately administering the operating permit program or finds that further evaluation is immediately warranted, an extensive performance audit shall be conducted, as provided in Section 10.08(A)(3)(c)(iv).
 - vi. Annual Reports. The BCAA shall prepare an annual report evaluating its operating permit program administration. Such report shall 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 BCAA shall submit its report to its Board and to Ecology.
4. Administrative Dispute Resolution.
- a. Preliminary Statement of Source Data. The BCAA shall provide to the permit program sources under their respective jurisdictions a preliminary statement of emissions and other data from that source upon which the BCAA intends to base

its allocation determination under Section 10.08(A)(1)(e). Such preliminary statement shall be provided to the permit program sources on or before September 30 of each year. Such preliminary statement shall 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) 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 BCAA, 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). Such petition shall be lodged on or before October 31 of each year. Such petition shall be in writing, directed to the individual indicated on the statement of source data. Such petition shall 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 shall, in addition, state the name, address and telephone number of the person or persons to whom the BCAA may direct inquiries regarding the request. Upon receipt of such a petition, the BCAA, as a delegated local authority, must issue its written response to the petitioner on or before November 30 of each year. Such response shall state the conclusions of the review and the reasons therefore, and shall contain a new preliminary source data statement, revised to reflect any changes necessitated by the BCAA's response.
- c. **Final Source Data Statement.** The BCAA shall provide to the permit program sources under its jurisdiction a final statement of emissions and other data from that source upon which the BCAA will base its allocation determination under Section 10.08(A)(1) 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 shall pay a fee in the amount reflected in the invoice issued under Section 10.08(A)(4)(c). Such fee shall be due on or before February 28 of each year.
- b. **Late Payment of Fees.** BCAA shall 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:
 - vii. 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;
 - viii. 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
 - ix. 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 BCAA shall 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), are additional to and in no way prejudice the BCAA'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 shall 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 shall 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 shall not affect that source's obligation to pay operating permit fees. Any liability for fee payment, including payment of late payment and other penalties shall survive any transfer in ownership of a source.
6. Development and Oversight Remittance by Local Authorities to Ecology
- a. Ecology will provide to the BCAA 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 BCAA shall 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 shall remit to Ecology the balance of its share of Ecology's development and oversight costs on or before June 30 of each year.

Section 10.10 Special Burning Permit Fees

- A. An application fee of fifty dollars (\$50.00) 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 shall be charged for each submittal of a request for special burning permit. The additional fee shall be calculated based upon the volume of the material to be burned. The additional fee shall not exceed eight dollars and fifty cents (\$8.50) per cubic yard or the adjusted amount according to WAC 173-425.
- C. The additional fee shall be due and payable within thirty (30) days of issuance of the special burning permit. Special burning permit fees shall 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 shall be due and payable at the time of submittal of the application. Refunds may be issued by the BCAA for acres not burned under each permit.
- B. Upon approval of any agricultural burning permit application, the BCAA shall charge a fee not to exceed two dollars and fifty cents (\$2.50) per acre for each acre permitted to be burned. A portion of this fee shall go directly to Ecology to be divided among administration, oversight costs, and the research fund. The remainder of the shall go to the BCAA for local administration and implementation of the program.
- C. The local portion of the agricultural burning permit fee shall be seventy-five cents (\$0.75) per acre.
- D. The minimum permit fee shall be no less than twenty-five dollars (\$25.00).

ACRONYMS AND ABBREVIATIONS

ACM	Asbestos Containing Material
ARP	Application for Relief from Penalty
BACT	Best Available Control Technology
BART	Best Available Retrofit Technology
BCAA	Benton Clean Air Authority
Board	Benton Clean Air Authority 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
USC	United States Code
WAC	Washington Administrative Code