



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (4/25/96)

Agency: Benton Clean Air Authority	<input checked="" type="checkbox"/> Permanent Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Expedited Repeal
(1) Date of adoption: January 20, 2000	

(2) Purpose:
Change name throughout document; remove illegal agricultural burn exemption; reduce copy fee to \$.15 to comply with state law; general housekeeping items; etc.

(3) Citation of existing rules affected by this order:
 Repealed:
 Amended:
 Suspended:

(4) Statutory authority for adoption: RCW 70.94
Other authority:

PERMANENT RULE ONLY
 Adopted under notice filed as WSR 99-19-156 on 9/22/99 (date).
 Describe any changes other than editing from proposed to adopted version:
 Proposed fee schedules were not adopted in Section 10.05; 10.06; 10.07.

EMERGENCY RULE ONLY
 Under RCW 34.05.350 the agency for good cause finds:
 (a) 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.
 (b) 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:

EXPEDITED REPEAL ONLY
 Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date).

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
 Yes No If Yes, explain:

(6) Effective date of rule:
Permanent Rules or Expedited Repeal
 31 days after filing
 Other (specify) _____ *
Emergency Rules
 Immediately
 Later (specify) _____
 *(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

CODE REVISER USE ONLY

COMMERCIAL OFFICE
 STATE OF WASHINGTON

FEB 14 2000

TIME 12:18 AM
 WSR 00-05-051 PM

NAME (TYPE OR PRINT)
David A. Lauer

SIGNATURE
David A. Lauer

TITLE Control Officer **DATE** 2/11/2000

**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Federal statute:	New _____	Amended _____	Repealed _____
Federal rules or standards:	New _____	Amended _____	Repealed _____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 _____

The number of sections adopted on the agency's own initiative:

New _____ Amended _____ Repealed _____

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

New _____ Amended _____ Repealed _____

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 _____

January 2000

TABLE OF CONTENTS

REGULATION 1

ARTICLE 1 Policy, Short Title, and Definitions

Section 1.01:	Policy	1-1
Section 1.02:	Name of Authority	1-1
Section 1.03:	Short Title	1-1

ARTICLE 2 General Provisions

Section 2.01:	Powers and Duties of the Board	2-1
Section 2.02:	Control Officer's Duties and Powers	2-1
Section 2.03:	Confidential Information	2-2
Section 2.04:	Violations	2-2
Section 2.05:	Orders and Hearings	2-3
Section 2.06:	Appeals from the Board, Judicial Review	2-3
Section 2.07:	Status of Orders and Appeals	2-3
Section 2.08:	Falsification of Statement or Document, Unlawful Alteration of Documents, Display of Documents and Their Removal, Or Mutilation Prohibited	2-3
Section 2.09:	Service of Notice	2-4
Section 2.10:	Severability	2-4
Section 2.11:	Penalties	2-4
Section 2.12:	Restraining Order - Injunction - Other Court Order	2-5

ARTICLE 3 Reserved

ARTICLE 4 Reserved

ARTICLE 5 Open Burning

Section 5.01:	Reserved	5-1
Section 5.02:	Authority Implementation	5-1

ARTICLE 6 Agricultural Burning

Section 6.01:	Reserved	6-1
Section 6.02:	Authority Implementation	6-1

ARTICLE 7 Solid Fuel Burning Device Standards

Section 7.01:	Reserved	7-1
Section 7.02:	Authority Implementation	7-1

ARTICLE 8 Asbestos

Section 8.01:	CFR Adoption by Reference	8-2
Section 8.02:	Authority Implementation	8-2
Section 8.03:	Unexpected Discovery of Asbestos	8-3
Section 8.04:	Emergency Safeguards for the Public in the Case of Asbestos Spills or Scattering of Suspected Asbestos Material	8-3

ARTICLE 9 Source Registration

General Requirements for Registration 9-1
Source Classification 9-2

ARTICLE 10 Fees and Charges

Section 10.01: Fees and Charges Required 10-1
Section 10.02: Fees Otherwise Provided 10-1
Section 10.03: Fee Waiver, Indigency 10-1
Section 10.04: General Administrative Fees 10-1
Section 10.05: Registration Fees for Air Contaminant Sources 10-2
Section 10.06: Application and Permit Fees for Notice of Construction and Application
for Approval and for Notice of Intent to Install and Operate a Temporary
Source 10-2
Section 10.07: Asbestos 10-3
Section 10.08: Operating Permit Fees 10-4
Section 10.09: Special Open Burning Permits 10-10
Section 10.10: Agricultural Burning Permits 10-11

ABBREVIATIONS AND ACRONYMS A-1

ARTICLE 1

Policy, Short Title, and Definitions

ADOPTED: April 18, 1996

EFFECTIVE: May 25, 1996

Section 1.01: Policy

The Benton ~~County~~ Clean Air Authority, with the boundaries of Benton County, has been activated by the Washington Clean Air Act, Revised Code of Washington (RCW) 70.94 as amended. The Benton ~~County~~ Clean Air Authority, declared to be and directed to function as a single county authority, adopts this Regulation as well as RCW 70.94 as amended to control the emissions of air contaminants from all sources within the jurisdiction of the Authority; to provide for the uniform administration and enforcement of this Regulation; and to carry out the requirements and purposes of the Washington Clean Air Act.

It is hereby declared to be the public policy of the Benton ~~County~~ Clean Air Authority to secure and maintain such levels of air quality that protect human health and safety, including the most sensitive members of the population, to comply with the requirements of the federal clean air act, to prevent injury to plant and animal life and to property, to foster the comfort and convenience of its inhabitants, to promote the economic and social development of the County and to facilitate the enjoyment of the natural attractions of the County.

It is further the intent of this Regulation 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.

This Regulation adopts the RCW and Washington Administrative Codes (WAC) to the extent applicable to this Authority. When the Benton ~~County~~ Clean Air Authority judges it necessary, specific local provisions are adopted to implement the above laws.

Section 1.02: Name of Authority

The name of the County Air Pollution Control Authority, with the boundaries of Benton County, shall be known as the "BENTON ~~COUNTY~~ CLEAN AIR AUTHORITY."

Section 1.03: Short Title

This Regulation shall be known and cited as "Regulation 1 of the Benton ~~County~~ Clean Air Authority" (hereinafter referred to as the ~~BCCA~~BCAA or the Authority).

ARTICLE 5

Open Burning

ADOPTED: April 18, 1996

EFFECTIVE: May 25, 1996

Section 5.01: Reserved

Section 5.02: Authority Implementation

- A. Open burning in Benton County will be regulated using the "General Rule Burn" permitting system described in WAC 173-425-070. This system, which provides a limited number of days when open burning is allowed, will be implemented and enforced by the ~~BCCAABCAA~~ within all city limits and urban growth areas in Benton County. The ~~BCCAABCAA~~ will provide a spring window and fall window when burn days will be specified as established by WAC 173-425-070 or Board decision. Within each window, the ~~BCCAABCAA~~ will make daily burn decisions based on current monitoring and meteorological information. This information will be provided daily on a published burn-message phone line, and/or through the local media. Open burning is restricted at all other times throughout the year, except as defined in Section 5.02(B) and (C), or with a Special Burn Permit as described in Section 5.02(F) below.
- B. For all areas within Benton County which are outside of all city limits and urban growth areas, open burning for residential purposes may be conducted without a permit (or permission) and without the payment of a fee except for those outlined in Section 5.02 (D)(2),(D)(8),(D)(9), and (F)(2) below.
- C. There are no restrictions on burning tumbleweeds which have been blown by the wind, regardless of location within Benton County or the current "burn day" status.
- D. A person burning under this section must follow these requirements and restrictions:
1. Unless otherwise specified, on "burn days" open burning may be conducted in areas where open burning is allowed only between the hours of 9 a.m. and one hour before Sunset.
 2. The fire must not include the following materials: garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper (other than what is necessary to start a fire), cardboard, treated wood, construction debris, metal or any substance (other than natural vegetation) which when burned releases toxic emissions, dense smoke, or obnoxious odors.
 3. A person capable of extinguishing the fire must attend it at all times and the fire must be extinguished before leaving it.
 4. No fires are to be within fifty feet of structures.
 5. The pile must not be larger than four feet by four feet by three feet.

6. Only one pile at a time may be burned, and each pile must be extinguished before lighting another.
 7. No outdoor fire is permitted in or within 500 feet of forest slash.
 8. If the fire creates a nuisance, it must be extinguished.
 9. Permission from the landowner or the landowner's designated representative must be obtained before starting an open fire.
- E. No open burning shall be allowed on sites where active construction or demolition activities are occurring.
- F. Special burning permits
1. No building, structure, or vessel may be demolished by intentional burning, either for demolition or for fire training, without a written approval, in the form of a special burning permit, from the Authority. The special permit will contain restrictions regarding prohibited materials, fire safety, asbestos removal or demolition, and other restrictions as deemed necessary. Special burn permits shall be subject to a fee as described in Section 10.09.
 2. No burning of large quantities of unprocessed or processed natural vegetation, except as provided under Section 5.02(D), accumulated from land clearing or other activities or events is allowed except by written special permit from the Authority. Special burning permits will specify restrictions and conditions on a case by case basis. Special burning permits shall be subject to a fee as described in Section 10.09. Agricultural burning as defined in WAC 173-430-020 on commercially viable agricultural enterprises is exempted.
 3. When anyone under the jurisdiction of this Authority would like to apply for a special burning permit to allow them to perform an operation or procedure otherwise not granted under this Article, they may submit a request for special burn permit ~~Request for Special Burning Permit (RSBP)~~ at least five (5) working days prior to the proposed activity to the Authority with an application fee as described in Section 10.09. Payment of the fee shall not guarantee the applicant that the request will be approved. The RSBP request for special burn permit must include the name, address and phone number of the applicant, a detailed explanation of the requested special permit, purpose of the special permit, and how the applicant would incur hardship without the special permit.

ARTICLE 6
Agricultural Burning

ADOPTED: April 18, 1996

EFFECTIVE: May 25, 1996

Section 6.01: Reserved

Section 6.02: Authority Implementation

- A. For the purpose of this section agricultural burning does not include incidental agricultural burning as listed in RCW 70.94.745. All other agricultural burning ~~of more than ten (10) acres annually~~ requires a written agricultural burning permit.
- B. Agricultural burning permit applications and agricultural burning permits for Benton County farmers are available from the ~~BCCA~~ABCAA and are subject to the fees described in Section 10.10.
- C. Agricultural burning will be allowed only on designated "burn days". The Authority will make daily "burn" or "no-burn" designations based on current monitoring and meteorological data. This information will be provided daily on a published burn-message phone line, and/or through the local media.
- D. A person burning under this section must follow these requirements and restrictions:
 - 1. Unless otherwise specified, on "burn days" agricultural burning may be conducted in areas where burning is allowed only between the hours of 9 a.m. and one hour before Sunset.
 - 2. It is the responsibility of those conducting agricultural burning to be informed of any additional fire safety rules as determined by their local fire district or county.

ARTICLE 8

Asbestos

ADOPTED: April 18, 1996

EFFECTIVE: May 25, 1996

Section 8.01: CFR Adoption by Reference.

This article adopts all provisions of the following Code of Federal Regulations (CFR) by reference and makes it a part of Regulation 1 of this Authority: **CFR 40 Part 61 Subpart M "National Emission Standard for Asbestos,"** and CFR 40 Part 763 Subpart E "Asbestos Containing Materials in Schools."

Section 8.02: Authority Implementation

A. Definitions

1. Residential asbestos projects are defined as the renovation of any residential unit component or contents containing category I and II non-friable asbestos containing material (ACM) or regulated asbestos containing material (RACM), as defined in CFR 40 Part 61 Subpart M occurring in or on a residential unit.
2. Residential units are 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.

B. All Section 8.01 requirements shall apply to asbestos renovation and demolition projects that are greater than 48 square feet or 10 linear feet, (unless the surface area of the pipe is greater than forty-eight feet) and are subject to the notification requirements and fee schedule described in Section 10.07.

C. Operators (Certified Asbestos Abatement Contractors) who perform residential asbestos projects are subject to the requirements of Section 8.03(A) only when RACM is involved.

D. Only resident owners who occupy the residence and certified asbestos abatement contractors may conduct residential asbestos projects.

E. Resident owners performing their own residential asbestos projects for ACM and/or RACM are subject to the following requirements:

1. A written notification on forms provided by the Authority shall be submitted to the Authority ten (10) working days prior to the asbestos removal.
2. A filing fee as described in Section 10.07 of this Regulation shall accompany the written notice.

3. The owner of a residential project must participate in a prescribed educational program prepared by the Authority concerning the hazards of asbestos removal in the home. This program may include, but may not be limited to:
 - a. Watching an informational video,
 - b. Agreement to read and understand informational pamphlets, provided by the Authority, concerning proper residential asbestos removal. Any questions pertaining to this material shall be addressed by the Authority.
4. If after reviewing the notification form, interviewing the applicant about methods of removal and disposal, and inspecting the site as deemed necessary, the Authority may grant permission for owner or operator, or require a certified asbestos contractor to perform removal.

F. A demolition project under Section 8.01 and 8.02(E) that contains no asbestos requires ten (10) working day advance notification.

F.G. All residential demolition projects are subject to the provisions of 8.01.

Section 8.03: Unexpected Discovery of Asbestos

- A. In the event of an unexpected discovery of asbestos during a renovation or demolition project, which was originally thought to contain no asbestos, the requirements of either Section 8.01 or 8.02 are applicable, and all work must stop until these requirements have been met.
- B. During an approved renovation or demolition project, if an unexpected discovery of additional asbestos is made which increases the project by 20% or greater than originally reported, an amendment or emergency waiver form must be filed with the Authority before work may continue.

Section 8.04: Emergency Safeguards for the Public in the Case of Asbestos Spills or Scattering of Suspected Asbestos Material

- A. In all such instances the suspected material shall be considered asbestos, and treated with proper precautions until such time as it is determined not to contain asbestos.
- B. Immediate action shall be taken to contain the spill and to prevent entry of unprotected and/or unauthorized persons; methods shall include but are not limited to:
 1. Roping off contaminated areas, danger signs may be considered appropriate in open areas.
 2. Locking or barring doors in buildings.
- C. A call shall be placed to the appropriate emergency response center to provide them with the necessary information so that they may notify the ~~BCCA~~ABCAA and/or respective law enforcement agency on an emergency basis.

ARTICLE 9

Source Registration

ADOPTED: April 18, 1996

EFFECTIVE: May 25, 1996

Section 9.01: ~~Registration Required~~ General Requirements for Registration

The classes of air contaminant sources listed in ~~Exhibit "A"~~ Section 9.02 below shall be registered with the Authority.

- 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. ~~Registration Issuance~~ 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 70.94 RCW.
 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.
- C. Registration Issuance

Section 9.02: ~~General Requirements for Registration~~

- A. ~~Registration of an installation or facility shall be made by the owner or lessee of the source, or agent of the owner, lessee or source, on forms furnished by the Authority. The owner or lessee of the source is responsible for registration and for the accuracy of the information submitted.~~
- B. ~~A separate registration shall be required for each source. The owner or operator shall register each facility with a detailed inventory of emission points, emission type, and quantity of emissions.~~
- C. ~~Each registration shall be signed by the owner or lessee, or the agent for such owner or lessee, and returned with the appropriate fee. Penalties can be assessed for non-compliance in accordance with Section 2.11(B)(8).~~

1. 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.
- ~~E.2.~~ 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.
- ~~F.3.~~ 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.
- ~~G.4.~~ 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.
- ~~H.5.~~ Report of closure. A report of closure shall be filed with the BCAA within ninety days after operations producing emissions permanently cease at any applicable source under this section.
- ~~I.6.~~ Report of change of ownership. A new owner or operator shall report to the BCAA within ninety days of any change of ownership or change in operator.
- ~~J.7.~~ Operating permit program source exemption. Permit program sources, as defined in RCW 70.94.030(17), are not required to comply with the registration requirements of ~~WAC 173-400-100 through 173-400-104~~ this section.

~~Section 9.01:~~ Section 9.02: EXHIBIT "A" Source Classification

- ~~1.A.~~ All sources required to register with Ecology according to WAC 173-400-100 in General Regulations for Air Pollution Sources.
- ~~2.B.~~ All facilities required to register according to WAC 173-491, Emission Standards and Controls for Sources Emitting Gasoline Vapors.
- ~~3.~~ Any source or emission unit as defined in WAC 173-400-030 with an emission greater than or equal to 20% of the amount of the regulated pollutants listed in WAC 173-400-030 excluding "major sources" as defined in WAC 173-401-200.
- ~~4.C.~~ Any existing stationary source, which if new, the federal standard of performance (NSPS) would be applicable according to WAC 173-400-115 Standards of Performance for New Sources.

- ~~5.D. Any existing source, which if new, would be subject to a National Emission Standard for Hazardous Air Pollutants (NESHAPS).~~
- ~~6.E. Any new or existing source of toxic air pollutants as defined in WAC 173-460-020, which exceeds small quantity emission rates defined in WAC 173-460-080.~~
- ~~7.F. Any new source category and any existing source, which if new, would be required by WAC 173-400-110 to undergo New Source Review.~~
- ~~8.G. Permanently located abrasive blasting operations.~~
- ~~9. Dry cleaners and dry cleaning plants.~~
- ~~10. Fuel burning equipment other than those serving dwellings of four or less families and has a heat input of more than 1,000,000 BTU per hour.~~
- ~~11. Insulation manufacturers.~~
- ~~12. Metal plating and anodizing operations.~~
- ~~13. Plastics and fiberglass fabrication facilities.~~
- ~~14. Permanently located surface coating operations including but not limited to coating of vehicles, metal, wood, plastic, rubber, or glass.~~
- ~~15. Permanently located vapor and gas collection systems including liquid stripping and flares.~~
- ~~16.H. Waste oil burners except waste oil burners used for space heating and which have an input not to exceed 500,000 BTU per hour provided that such burners are operated in accordance with WAC 173-303-515.~~
- ~~17. Corpus cremateriums.~~

ARTICLE 10
Fees and Charges

ADOPTED: April 18, 1996

EFFECTIVE: May 25, 1996

Section 10.01: Fees and Charges Required

A fee or service charge shall be paid to the Authority for issuance of permits and for providing services as hereinafter provided.

Section 10.02: Fees Otherwise Provided

All fees and charges provided for in this Article are 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 this Regulation.

Section 10.03: Fee Waiver, Indigency

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, Indigency Form supplied by the Authority.

Section 10.04: General Administrative Fees

- A. A fee of ~~twenty five~~ fifteen cents (\$.15) per page shall be charged for photocopies.
- ~~B. A fee of twenty dollars (\$20.00) per hour shall be charged for all time expended preparing photocopies and for obtaining documents to be photocopied for requests covering more than ten pages.~~
- B. A fee of twenty dollars (\$20.00) per hour will be charged for research time for requests covering more than one-hour of staff time.
- C. A fee of ten dollars (\$10.00) will be charged per copy of audio or video materials.
- ~~C.D.~~ The actual cost of postage or shipping shall be charged for all material requested to be mailed.
- ~~D.E.~~ For other administrative services requested and performed by Authority staff which are not provided to the public generally, the Control Officer shall determine such charge as reasonably reimburses the Authority for time and materials expended in providing the service.

Section 10.05: Registration Fees for Air Contaminant Sources

- A. The Authority shall charge an annual registration fee pursuant to RCW 70.94.151. The Authority shall levy annual registration fees 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 will review the registration program on an annual basis.
- B. All air contaminant sources required by Section 9.02, ~~EXHIBIT "A"~~ to be registered shall be divided into the following three categories and are subject to the applicable fee:
1. Class 1 sources are defined as all sources emitting pollutants, unless otherwise exempted by law or contained in Class 2 or Class 3. Class 1 sources shall pay an annual registration fee of one hundred dollars (\$100.00) at the time of registration.
 2. Class 2
 - a. Class 2 sources shall pay an annual registration fee at the time of registration. In no case shall the fee so calculated be less than three hundred fifty dollars (\$350.00) per year.
 - b. Sources emitting a base amount of more than 20% of the amount of the regulated pollutants listed in the definition of significant emissions in WAC 173-400-030, except major sources as defined in WAC 173-401-200, which are eligible for the Federal Clean Air Act Title V air operating permits. For these emission sources, the Class 2 fee shall be an amount equal to the average BCAA "per ton" fee for air operating permittees times the actual tons of pollutants emitted each year in excess of the above defined base amount.
 - c. Class 2 toxic sources are those sources emitting more than one (1) ton of a single or more than 2.5 tons of a combination of toxic substances as defined in WAC 173-460-020, except major sources as defined in RCW 70.94.030(17). (Section 10.05(B)(2)(b)). The Class 2 fee for sources emitting toxic pollutants shall be an amount equal to the average ~~BCCAA~~ "per ton" fee for air operating permittees times the actual tons of toxic pollutants over the above defined base amount times a factor of seven (7).
 3. Class 3 sources are those sources that meet the requirements for permitting under the air operating program as described in WAC 173-401. Class 3 sources are subject to the fee schedule outlined in Section 10.08 of this Regulation.
- C. All gasoline facilities required by Section 9.02 to be registered shall register annually in accordance with WAC 173-491-030 and pay the following annual fees:
1. Gasoline Loading Terminals: five hundred dollars (\$500.00),
 2. Bulk Gasoline Plants two hundred dollars (\$200.00), and
 3. Gasoline Dispensing Facilities: one hundred dollars (\$100.00).

Section 10.06: Application and Permit Fees for Notice of Construction and Application for Approval and for Notice of Intent to Install and Operate a Temporary Source

- A. All construction under RCW 70.94.152 and 153 shall be required to file a Notice of Construction and Application for Approval (NOC). A filing fee of fifty dollars (\$50.00) shall

be paid at the time of filing the NOC. If the registration fee required in Section 10.05 also applies to the construction, the filing fee shall be waived.

- B. For portable air contaminant sources that locate temporarily at particular sites within the Authority's jurisdiction, a Notice of Intent to Operate a Temporary Source and Application for Approval (NIO) must be filed with the Authority. A fee of one hundred dollars (\$100.00) shall be paid at the time of filing the NIO.
- C. In addition to the filing fees provided in Section 10.06(A) and (B), when an inspection is deemed necessary by the Authority, a plan review and inspection fee shall be paid at a rate equal to the hourly rate of the Authority's Air Operating Permit Engineer for a period not to exceed 10 hours.
- D. State Environmental Policy Act (SEPA) fees under WAC 197-11. For every environmental checklist the Authority reviews when it is Lead Agency, the applicant shall pay the threshold determination fee of fifty dollars (\$50.00) prior to the undertaking of the threshold determination by the responsible official of the Authority. If the Authority decides it must prepare a statement in order to comply with the SEPA before taking any action on an NOC, the cost of preparing, publishing, and distributing such a statement at a cost per hour rate for Authority staff time based upon actual cost as determined by the Control Officer and such other expenses as mutually agreed upon by the applicant and the Control Officer including consulting services, testing, reproduction, distributing, etc., shall be paid by the applicant.
- E. The cost of publishing a public notice shall be borne by the applicant or other initiator of the action.
- F. When an operation for which an NOC or ~~NIO~~ Temporary NOC (less than one year at a location) is required commences prior to making application and receiving approval, the Control Officer or his authorized agent may conduct an investigation as part of the application ~~NIO~~ review. In such a case, an investigation fee of three hundred dollars (\$300.00) shall be paid in addition to all other required fees in Section 10.06. Payment of the fees does not relieve any person from the requirement to comply with the regulations nor from any penalties for failure to comply.

Section 10.07: Asbestos

- A. Any owner or operator of a renovation or demolition activity required by CFR 40 Part 61 Subpart M or Article 8 to notify the Authority prior to starting the renovation or demolition, or required by federal regulation to be approved or inspected by the Authority, shall give the required advance notice and pay a processing fee to the Authority determined by the following:
 - 1. All single renovation or demolition projects under Section 8.01 or Section 8.02(B), require a ten (10) working day advance notification on a written "Notice of Intent to Remove Asbestos Materials," and a fifty dollar (\$50.00) fee.
 - 2. Annual notices under Section 8.01, and within the notification requirements of Section 8.02(B), require ten (10) working day advance notification, an annual written application for approval, and a three hundred dollar (\$300.00) fee.
 - 3. An amendment under Section 8.01 or Section 8.02 to an approved renovation or demolition requires prior notification, an amended application, and a twenty-five dollar (\$25.00) fee for the 2nd amendment and any thereafter.

4. An emergency under Section 8.01 or Section 8.02 requires prior notification, an Emergency Waiver Request Letter submitted by the property owner or operator, a Notice of Intent to Remove Asbestos, and a fifty dollar (\$50.00) emergency fee as well as the normal application fee described in this Section.
5. A residential asbestos project under Section 8.02 requires ten (10) working day advance notification, on a "Notice of Intent to Remove Asbestos Materials," form accompanied by a filing fee of ten dollars (\$10.00).
- ~~6. A demolition project under Section 8.01 and 8.02 that contains no asbestos requires ten (10) working day advance notification.~~

Section 10.08: 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 ~~BCCA~~BCCA 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 ~~BCCA~~BCCA shall also collect its jurisdiction's share of Ecology's development and oversight costs. The fee schedule shall differentiate as separate line items the ~~BCCA~~BCCA'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 ~~BCCA~~BCCA in administering and enforcing the operating permit program with respect to sources under its jurisdiction. Eligible permit administration costs are as follows:
 - (A) Preapplication 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 ~~BCCA~~BCCA 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 BCCAABCAA 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 BCCAABCAA 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 BCCAABCAA shall publish a final budget for the following calendar year on or before June 30.

e. Allocation Methodology.

i. Permit Administration Costs. The BCCAABCAA 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 BCCAABCAA, 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 BCCAABCAA 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 BCCAABCAA.

a. Collection from Sources. The BCCAABCAA, as a delegated local authority, shall collect the fees from the permit program sources under its jurisdiction.

i. Permit Administration Costs. The BCCAABCAA 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 BCCAABCAA 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 ~~BCCAABCAA~~, 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 ~~BCCAABCAA~~ 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 ~~BCCAABCAA~~ 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 ~~BCCAABCAA~~ 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 ~~BCCAABCAA~~ 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 ~~BCCAABCAA~~ 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 ~~BCCAABCAA~~ 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 ~~BCCAABCAA~~ shall track revenues on a source-specific basis.
- ii. Time and Expenditures. The ~~BCCAABCAA~~ 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 ~~BCCAABCAA~~ 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 Authority's operating permit program administration, as follows:
- i. Fiscal Audits. The ~~BCCAABCAA~~ 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 ~~BCCAABCAA~~ 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 Authority's audits.
 - iii. Annual Random Individual Permit Review. One permit issued by the ~~BCCAABCAA~~ 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 Authority's review.
 - iv. Periodic Extensive Performance Audits. The ~~BCCAABCAA~~ shall be subject to extensive performance audits every five years. In addition, this authority 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 Authority.
 - 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 ~~BCCAABCAA~~ 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 BCCAABCAA 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 BCCAABCAA shall submit its report to its Board and to Ecology.

4. Administrative Dispute Resolution.

a. Preliminary Statement of Source Data. The BCCAABCAA 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 authority 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 BCCAABCAA, 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 BCCAABCAA may direct inquiries regarding the request. Upon receipt of such a petition, the BCCAABCAA, 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 authority's response.

c. Final Source Data Statement. The BCCAABCAA shall provide to the permit program sources under its jurisdiction a final statement of emissions and other data from that source upon which the local authority 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. BCCAABCAA 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:

- i. 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;
 - ii. 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
 - iii. 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 ~~BCCAABCAA~~ 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 ~~BCCAABCAA~~'s ability to exercise other civil and criminal remedies, including the authority to revoke a source's operating permit for failure to pay all or part of its operating permit fee.
 - e. Facility Closure. Sources that permanently cease operations will be required to pay only a pro rata portion of the annual operating permit fee for the fiscal year in which they cease operations. The portion of the fee to be paid will be calculated by dividing the number of calendar days that have passed in the relevant calendar year at the time the source ceases operations by the total of 365 calendar days, and multiplying the fraction thus derived by the fee that the source would have paid for the relevant calendar year, had it not ceased operations.
 - f. Transfer in Ownership. Transfer in ownership of a source 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 Authority 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 Authority 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 10.09: Special Open Burning Permits

- A. Anyone who submits to the Authority a request for special burning permit ~~RSBP~~ shall pay an application fee of fifty dollars (\$50.00).
- B. Upon approval of the request for special burn permit ~~RSBP~~ the Authority will charge an additional fee at a rate determined by the volume of the material to be burned, and inspection and oversight costs. 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. Special Open Burning Permits shall be valid for a period not to exceed one year, at which time the applicant may re-apply with another \$50.00 fee.

Section 10.10: Agricultural Burning Permits

- A. Upon approval of any agricultural burn permit application, the BCCAABCAA will charge a fee not to exceed two dollars and fifty cents (\$2.50) per acre for each acre permitted to be burned. This fee is divided into a local and a state portion. One dollar (\$1.00) per acre of each fee will go directly to Ecology to be divided among administration, oversight costs, and the research fund. The remainder of the fee will go to the BCCAABCAA for local administration and implementation of the program.
- B. The local portion of the agricultural burn permit fee will be seventy-five cents (\$0.75) per acre.
- C. Permits will only be issued upon receipt of full payment. Refunds may be issued by the BCCAABCAA for acres not burned under each permit.

ACRONYMS AND ABBREVIATIONS

ACM	Asbestos Containing Material
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
NOI	Notice of Intent to Demolish or Remove Asbestos
NSPS	New Source Performance Standard
PSD	Prevention of Significant Deterioration
RACM	Regulated Asbestos Containing Material
RACT	Reasonably Available Control Technology
RCW	Revised Code of Washington (law)
SEPA	State Environmental Policy Act (law)
WAC	Washington Administrative Code (regulation)