



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)

Agency: **BFWWC APCA** (Benton Franklin Walla Walla Counties
Air Pollution Control Authority)

Permanent Rule
 Emergency Rule

(1) Date of adoption: **October 7, 1993**

(2) Purpose: **Establish general and specific regulations governing the control of air contaminant emissions in Benton Franklin and Walla Walla counties. Bring local regulations up to date and make consistent with current state law Chapter 70.94 RCW.**

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

Repealed: **The existing local regulation 80-7 will be repealed on the effective date**
Amended: **of the new Regulation 1.**
Suspended:

(4) Authority for adoption:

Statute: **Chapter 70.94 RCW**
Other Authority:

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR 93-13-128 on June 22, 1993 (date).

Describe any changes other than editing from proposed to adopted version:

No changes other than editing from proposed to adopted version.

(5.2) EMERGENCY RULE ONLY

Pursuant to 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:

(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

Emergency Rules

31 days after filing

Immediately

Other (specify) _____*

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

CODE REVISER'S OFFICE
STATE OF WASHINGTON

OCT 18 1993

TIME: 2:40 AM
WSR 93-21-047

NAME (TYPE OR PRINT)

David A. Lauer

SIGNATURE

David A. Lauer

TITLE

Control Officer

DATE

10/13/93

Original

October 1993

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ARTICLE 1

POLICY, SHORT TITLE, AND DEFINITIONS

ADOPTED: **October 7, 1993**

EFFECTIVE:

Section 1.01 Policy

The Benton Franklin Walla Walla Counties Air Pollution Control Authority, co-extensive with the boundaries of Benton, Franklin, and Walla Walla Counties, has been activated by the Washington Clean Air Act, Chapter 70.94 RCW as amended. The Benton Franklin Walla Walla Counties Air Pollution Control Authority, declared to be and directed to function as a multi-county authority, adopts this Regulation as well as Chapter 70.94 RCW 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 Franklin Walla Walla Counties Air Pollution Control 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 Counties and to facilitate the enjoyment of the natural attractions of the Counties.

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 Revised Code of Washington (RCW) and Washington Administrative Codes (WAC) to the extent applicable to this Authority. This Authority has included additional requirements to the adopted codes where the Authority deems it necessary.

Section 1.02 Name of Authority

The name of the Counties' Air Pollution Control Authority, co-extensive with the boundaries of Benton, Franklin, and Walla Walla Counties, shall be known as the "BENTON FRANKLIN WALLA WALLA COUNTIES AIR POLLUTION CONTROL AUTHORITY".

Section 1.03 Short Title

This regulation shall be known and cited as "Regulation 1 of the Benton Franklin Walla Walla Counties Air Pollution Control Authority."

ARTICLE 2

GENERAL PROVISIONS

ADOPTED: October 7, 1993

EFFECTIVE:

Section 2.01 Powers and Duties of the Board

Pursuant to the provisions of the "Washington Clean Air Act" RCW 70.94, the Board shall establish such procedures and take such action as may be required to implement Section 1.01 of this Regulation consistent with the State Act and other applicable laws. The Board may take such action as may be necessary to prevent air pollution including control and measurement of the emission of air contaminant from a source. The Board shall appoint a Control Officer competent in the control of air pollution who shall, with the Board's advice and approval, enforce the provisions of this Regulation and all ordinances, orders, resolutions, or rules and regulations of this Authority pertinent to the control and prevention of air pollution in the Counties.

The Board shall have the power to hold hearings relating to any aspect of or matter in the administration of this Regulation 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.

The Board shall have the power to adopt, amend and repeal its own ordinances, resolutions, rules, or orders and regulations. Any adoption, amendment, or repeal of the Board's ordinances, resolutions, rules, or orders and regulations shall be made after due consideration at a public hearing held in accordance with Chapter 42.30 RCW, and shall have the same force and effect as all other of the Board's ordinances, resolutions, rules, or orders and regulations as soon as adopted by the Board. (See RCW 70.94.141)

Section 2.02 Control Officer's Duties and Powers

- A. The Control Officer and/or his authorized agents shall observe and enforce the provisions of the State Law and all orders, ordinances, resolutions, or rules and regulations of the Authority 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 employees as are necessary to the performance of the duties assigned to him 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, the State Agency, and the appropriate Federal Agencies.

- D. The Control Officer may engage, at the Authority'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 which are or may be discharged from any source within the Authority's jurisdiction.
- E. For the purpose of investigating conditions specific to the control, recovery or release of air contaminants into the atmosphere, the Control Officer or his duly authorized representatives shall have the power to enter, at reasonable times, upon any private or public property, excepting nonmultiple unit private dwellings housing two families or less. No person shall refuse entry or access to the Control Officer or his duly authorized representatives 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. (RCW 70.94.200)
- F. If the Control Officer or an authorized employee of the Authority during the course of an inspection desires to obtain a sample of air contaminant, fuel, process material or other material which affects or may affect the emission of air contaminants, he shall notify the owner or lessee of the time and place of obtaining a sample so the owner or lessee has the opportunity to take a similar sample at the same time and place, and the Control Officer or the authorized employee of the Authority shall give a receipt to the owner or lessee for the sample obtained.
- G. The Control Officer shall be empowered by the Board to sign official complaints or issue citations or initiate court suits or use other legal means to enforce the provisions of this Regulation.

Section 2.03 Confidential Information

Whenever any records or other information, other than ambient air quality data or emission data, furnished to or obtained by the Authority, pursuant to Chapter 70.94 RCW, relate to processes or production unique to the owner or operator, or is likely to adversely affect the competitive position of such owner or operator if released to the public or to a competitor and the owner or operator of such processes or production so certifies, such records or information shall be only for the confidential use of the Department of Ecology or the Authority. (RCW 70.94.205)

Section 2.04 Violations

- A. At least thirty days prior to the commencement of any formal enforcement action under Chapter 70.94.430 RCW or Chapter 70.94.431 RCW the Authority shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of the State Law or of this Regulation alleged to be violated and the facts alleged to constitute a violation thereof, and may include an order directing that necessary corrective action be taken within a reasonable time. In lieu of an order the Board or the Control Officer may require that the alleged violator or violators appear before the Hearings Board for a hearing. Every Notice of Violation shall offer to the alleged violator an opportunity to meet with the Authority prior to the commencement of enforcement action.

Section 2.05 Orders and Hearings

- A. Any order issued by the Board or by the Control Officer, which is not preceded by a hearing, shall become final unless such order is appealed to the Hearings Board no later than thirty (30) days after the date the notice and order are served. All petitions of appeal from the notice and order are to be filed with the offices of the Pollution Control Hearings Board of Washington. (Chapter 43.21B RCW)

Section 2.06 Appeals From the Board, Judicial Review

- A. Any order issued by the Board after a hearing shall become final unless no later than thirty days after the issuance of such order, a notice of appeal is filed with the Hearings Board as provided in RCW 43.21 (B).
- B. Any order issued by the Board after the hearing shall become final unless no later than thirty days after the issuance of such order, a petition requesting judicial review is filed in accordance with the provisions of Chapter 34.04 RCW and now or hereafter amended. When such a petition is filed, the Superior Court shall initiate a hearing pursuant to RCW 34.04.130 within ninety days after the receipt of the petition requesting judicial review. Every appeal from a decision of the Superior Court shall be heard by the appropriate appellate courts as soon as possible. Such appeals shall be considered a case involving issues of broad public import requiring prompt and ultimate determination.

Section 2.07 Status of Orders and Appeals

- A. Any order of the Board or the Control Officer shall be stayed pending final determination of any hearing or appeal taken in accordance with the provisions herein, unless after notice and hearing the Superior Court shall determine that an emergency exists which is of such nature as to require that such order be in effect during the pendency of such hearing or appeal.
- B. Nothing in this Regulation 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 or their authorized representatives 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, registration certificate or other paper issued by the Agency if the purpose of such reproduction or alteration is to evade or violate any provision of this Regulation or any other law.
- C. Any order or registration certificate required to be obtained by this Regulation shall be

available on the premises designated on the order or certificate, unless otherwise authorized by the Authority.

- D. In the event the Authority 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.

Section 2.09 Service of Notice

- A. Service of any written notice required by this Regulation shall be made on the owner or lessee of equipment, or his agent as follows:
1. Either by mailing the notice in a prepaid envelope directed to the owner or lessee of the equipment, or his agent, at the address listed on his application or order of registration certificate or at the address where the equipment is located, by United States Postal Service Certified Mail, return receipt requested, or,
 2. By leaving the notice with owner or lessee of the equipment, or his agent, or if the owner or lessee is not an individual, then a member of the partnership or other concerned or with an officer or managing agent of the corporation.
- B. Service of any written notice required by this Regulation shall be made to the Authority as follows:
1. Either by mailing the notice in a prepaid envelope directed to the Authority at its office, by United States Postal Service Certified Mail, return receipt requested, or
 2. By leaving the notice at the Authority office with an employee of the Authority.

Section 2.10 Severability

If any phrase, clause, subsection or section of this Regulation shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the Board of Directors would have enacted the Regulation without the phrase, clause, subsection or section so held unconstitutional or invalid and the remainder of the Regulation shall not be affected as a result of said part being held unconstitutional or invalid. (RCW 70.94.911)

Section 2.11 Penalties

- A. Criminal Penalties
1. Any person who knowingly violates any of the provisions of Chapter 70.94 RCW or any regulation, ordinance, or resolution in force pursuant thereto, is guilty of a crime and upon conviction is subject to punishment by a fine or by imprisonment in the county jail or by both fine and imprisonment as provided by Chapter 70.94 RCW for each separate violation.

2. Any person who negligently releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable 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 crime and upon conviction is subject to punishment by a fine or by imprisonment or both as provided by Chapter 70.94 RCW.
3. Any person who knowingly releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, is guilty of a crime and upon conviction is subject to punishment by a fine or by imprisonment or both as provided by Chapter 70.94 RCW.
4. Any person who knowingly fails to disclose a potential conflict of interest under Chapter 70.94.100 RCW is guilty of a gross misdemeanor, and upon conviction thereof, is subject to a fine as provided by Chapter 70.94 RCW.

B. Other Penalties

1. a. In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of Chapter 70.94 RCW or any of the rules and regulations of the Department of Ecology or this Authority in force under this chapter may incur a civil penalty in an amount not to exceed that provided by Chapter 70.94 RCW for each violation. Each such violation is a separate and distinct offense, and in case of a continuing violation, each day's continuance is a separate and distinct violation.
b. Any person who fails to take action as specified by an order issued pursuant to Chapter 70.94 RCW or this Regulation is liable for a civil penalty in an amount not to exceed the penalty authorized by Chapter 70.94 RCW for each day of continued noncompliance.
2. Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by 19.52.020 RCW on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.
3. Each act of commission or omission which procures, aids, or abets in the violation is a violation under the provisions of this section and subject to the same penalty.
4. The penalty is due and payable when the person incurring the same receives a notice in writing from the Control Officer of the Authority or his designee describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the Pollution Control Hearings Board as provided in Chapter 43.21 B RCW. When a request is made for a hearing, the penalty is due and payable only upon completion of

all review proceedings and the issuance of a final order affirming the penalty in whole or part. If the amount of such penalty is not paid within thirty days after it becomes due and payable, and a request for a hearing has not been made, the Board or Control Officer, shall bring an action to recover such penalty. The penalties provided by Chapter 70.94 RCW and this section are imposed pursuant to Chapter 43.21B.300 RCW.

5. All penalties recovered under this section by the Authority are payable to the treasury of the Authority and credited to its funds.
6. To secure the penalty incurred under this section, the State or the Authority shall have a lien on any vessel used or operated in violation of this chapter which shall be enforced as provided in Chapter 60.36.050 RCW.
7. In addition to other penalties provided by this section, persons falsifying emission data or other information used to set fees, or persons required to pay emission, registration, permit, or any other fee payable to the Authority who are more than ninety days late with such payments are subject to a penalty equal to three times the amount of the original fee owed.

Section 2.12 Restraining Order - Injunction - Other Court Order

Notwithstanding the existence or use of any other remedy 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 this regulation or any rule, regulation or order issued by the Board or Control Officer or his authorized agent, the Board, or their designee, after notice to such person and an opportunity to comply, may petition the County Superior Court for a restraining order or a temporary or permanent injunction or another appropriate order. (RCW 70.94.425)

ARTICLE 3

VARIANCES, WHEN PERMITTED

Adopted: October 7, 1993

Revised:

Section 3.01 Variances

- A. Any person who owns or is in control of any plant, building, structure, establishment, process or equipment, including a group of persons who owns or controls like processes or like equipment, may apply to the Board for a variance from rules or regulations governing the quality, nature, duration, or extent of discharges of air contaminants. The application shall be accompanied by such information and data as the Board may require. The Board may grant such variance, but only after public hearing or due notice, if it finds that:
1. The emissions occurring or proposed to occur do not endanger public health or safety; and
 2. Compliance with the rules or regulations from which variances is sought would produce serious hardship without equal or greater benefits to the public.
- B. No variance shall be granted pursuant to this section until the Board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.
- C. Any variance or renewal thereof shall be granted within the requirements of Subsection A and for a time period and under conditions consistent with the reasons therefore, and within the following limitations:
1. If the variance is granted on the grounds that there is no practicable means known or available for the adequate prevention, abatement or control of the pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available and subject to the taking of any substitute or alternate measure that the Board may prescribe.
 2. If the variance is granted on the ground that compliance with the particular requirements or requirement from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable times, as in the view of the Board, is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall

contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.

3. If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in Item 1 and 2, it shall be for not more than one (1) year.

D. Any variance granted pursuant to this section may be renewed on terms and conditions and for period which would be appropriate on initial granting of a variance. If complaint is made to the Board on account of the variance, no renewal shall be granted unless, following a public hearing on the complaint on due notice, the Board finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty (60) days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the Board shall give public notice of such application in accordance with rules and regulations of the Board.

E. A variance or renewal shall not be a right of the applicant or holder thereof but shall be at the discretion of the Board. Any applicant adversely affected by the denial of the terms and conditions of the granting of an application for a variance or renewal of the variance by the Board, may obtain judicial review thereof only under the provisions of Chapter 43.21B RCW.

F. Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of RCW 70.94.415 of the Washington Clean Air Act to any person or his property. (RCW 70.94.181)

ARTICLE 4

Air Operating Permits

ADOPTED: October 7, 1993

EFFECTIVE:

Section 4.01 Intent to Implement

This article is a statement of intent to implement the Air Operating Permits program of Washington State pursuant to RCW 70.94 as amended and all regulations promulgated from RCW 70.94 and adopted on or before the effective date of this regulation (Regulation 1). Implementation of this program will be contingent on delegation of authority from the U.S. Environmental Protection Agency and the Washington State Department of Ecology.

Section 4.02 Applicability

I. Operating permits shall apply to all sources where:

- A. It is required by the Federal Clean Air Act, and;
- B. For any source that may cause or contribute to air pollution in such quantity as to create a threat to public health and welfare. This sub section shall not apply to small businesses except when both of the following limitations are satisfied:
 1. That source is in an area exceeding or threatening to exceed federal or state air quality standards.
 2. The Authority provides reasonable justification that requiring a source to have a permit is necessary in order to meet federal or state air quality standards.

Section 4.03 Program Delegation

The delegation order authorizing the Benton Franklin Walla Walla Counties Air Pollution Control Authority to administer an air operating permit program shall become effective ninety days after approval by the United States Environmental Protection Agency.

Section 4.04 Permit Application

A. Within one hundred eighty days after EPA approval of the Authority's permitting program, any

source required to have a permit shall submit to the Authority a compliance plan and a permit application, signed by a responsible official, certifying the accuracy of the information submitted. Until permits are issued, existing sources shall be allowed to operate under presently applicable standards and conditions provided such sources submit complete and timely permit applications.

- B. New Sources which commence operation after EPA approval of the Authority's permitting program and which are required to have a permit shall file a complete permit application within twelve months after commencing operation.
- C. Unless the Authority determines that an application is not complete within sixty days of receipt of the application, such application shall be deemed to be complete.

Section 4.05 Permit Content

- A. Each air operating permit shall state the origin of the specific legal authority for each requirement included therein. Every requirement in an operating permit shall be based upon the most stringent of the following requirements:
 - 1. The Federal Clean Air Act and rules implementing that act, including provisions of the approved state implementation plan, and;
 - 2. RCW 70.94 and the rules adopted thereunder, and;
 - 3. The requirements of any order or regulation adopted by the Authority, and;
 - 4. Chapter 70.98 RCW and rules adopted thereunder, and;
 - 5. Chapter 80.50 RCW and rules adopted thereunder.
- B. The Authority shall issue permits for a fixed term of five years.

Section 4.06 Permit Issuance, Renewal, Reopenings, and Revisions

- A. A proposed permit must be reviewed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the Benton Franklin Walla Walla Counties Air Pollution Control Authority or the Department of Ecology.
- B. The Authority shall take final action on each permit application within eighteen months of receiving a complete application except during a transition period (not to exceed three years) that will begin the effective date of the permit program. During the transition period the Authority shall take final action on at least one-third of all operating permit applications annually.
- C. A source shall submit an application for permit renewal no later than six months prior to the expiration date of the permit.
- D. A permit may be modified or amended during its term at the request of the permittee, or for any reason allowed by the Federal Clean Air Act.

Section 4.07 Public Involvement

All proposed permits shall be subject to public notice and comment. The Authority shall respond to comments received from interested parties prior to the time that the proposed permit is submitted to the EPA for review pursuant to Section 505(a) of the Federal Clean Air Act. In the event that the EPA objects to a proposed permit pursuant to Section 505(a) of the Federal Clean Air Act, the Authority shall not issue the permit, unless the permittee consents to the changes required by the EPA.

Section 4.08 Fee Assessment

All eligible sources under this chapter shall be subject to the interim and subsequent annual fees described in Article 10, Section 10.08 of this Regulation.

ARTICLE 5

Open Burning

ADOPTED: October 7, 1993

EFFECTIVE:

Section 5.01 WAC Adoption by Reference.

This article adopts all provisions of the following Washington Administrative Code by reference and makes it a part of Regulation 1 of this Authority: **WAC 173.425, "Open Burning."**

Section 5.02 Additional Requirements of this Authority

- A. For areas within the jurisdiction where burning is allowed, 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.
- B. 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 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.

C. No open burning shall be allowed on construction or demolition sites.

D. 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 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 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 Burning Permit (RSBP) at least five (5) working days prior to the proposed activity to the Authority with an application fee as described in Article 10, Section 10.09. Payment of the fee shall not guarantee the applicant that the request will be approved. The RSBP 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: October 7, 1993

EFFECTIVE:

Section 6.01 WAC Adoption by Reference.

This article adopts all provisions of the following Washington Administrative Code by reference and makes it a part of Regulation 1 of this Authority: **WAC 173.430, "Agricultural Burning."**

Section 6.02 Additional Requirements of this Authority

- A. 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.
- B. 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 7

Solid Fuel Burning Device Standards

ADOPTED: October 7, 1993

EFFECTIVE:

Section 7.01 WAC Adoption by Reference.

This article adopts all provisions of the following Washington Administrative Code by reference and makes it a part of Regulation 1 of this Authority: **WAC 173.433, "Solid Fuel Burning Device Standards."**

Section 7.02 Additional Requirements of this Authority

- A. A person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away an uninstalled used uncertified woodstove within the Authority's jurisdiction.

ARTICLE 8

Asbestos

ADOPTED: October 7, 1993

EFFECTIVE:

Section 8.01 CFR Adoption by Reference.

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

Section 8.02 Additional Requirements of this Authority

- A. All asbestos removal projects under Section 8.01 and those which do not fall under Sections 8.01 or 8.02(B) but are greater than 20 square feet or 35 linear feet are subject to the notification requirements and fee schedule described in Section 10.07.
- B. 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 mixed-use building, structure, or installation that contains a residential unit.

Owners or operators of residential asbestos projects are exempt from Section 8.01, but are subject to the following restrictions:

1. A written notification on forms provided by the Authority shall be submitted to the Authority 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 or operator of the residential project must participate in a prescribed educational program prepared by the Authority concerning the hazards of asbestos removal in the home. This program will 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.

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.

ARTICLE 9

Source Registration

ADOPTED: October 7, 1993

EFFECTIVE:

Section 9.01 Registration Required

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

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, on forms furnished by the Authority. The owner of the source and lessee are 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, 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 Article 2, Section 2.11(B)(7).

EXHIBIT "A"

- 1. All sources required to register according to WAC 173-400-100 **Registration under General Regulations for Air Pollution Sources**.
- 2. All facilities required to register according to WAC 173-491-030 **Registration under Emission Standards and Controls for Sources Emitting Gasoline Vapors**.
- 3. Any source or emission unit as defined in WAC 173-400-030 (63) and (24), respectively, with an emission greater than or equal to 20% of the amount of the regulated pollutants listed in WAC 173-400-030 (61) excluding "major sources" as defined in WAC 173-401-200 (18).
- 4. 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. Any existing source, which if new, would be subject to a **National Emission Standard for Hazardous Air Pollutants (NESHAPS)**.
6. Any new or existing source of toxic air pollutants as defined in WAC 173-460-020 (6) and (7), which exceeds small quantity emission rates defined in WAC 173-460-080 (2)(e). **{WAC 173-460 Controls for New Sources of Toxic Air Pollutants}**.
7. Any new source category required to undergo; and any existing source, which if new, would be required to undergo **New Source Review (WAC 173-400-110)**.
8. 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. Waste oil burners except waste oil burners used for space heating and which have an input not to exceed 0.5 million Btu per hour provided that such burners are operated in accordance with WAC 173-303-515.
17. Corpus crematoriums.

ARTICLE 10

Fees and Charges

ADOPTED: **October 7, 1993**

EFFECTIVE:

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 is duplicative of 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 \$.25 per page shall be charged for photocopies.
- B. A fee of \$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.
- C. The actual cost of postage or shipping shall be charged for all material requested to be mailed.
- D. 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 Article 9, 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 \$100 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 \$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 (61), except major sources as defined in WAC 173-401-200 (18) which are eligible for the Federal Clean Air Act Title V air operating permits (Article 4). For these emission sources, the Class 2 fee shall be an amount equal to the average BFWWC APCA "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 1 ton of a single or more than 2.5 tons of a combination of toxic substances as defined in WAC 173-460-020(6) & (7) except major sources [See 10.05(B)(2)(b)] The Class 2 fee for sources emitting toxic pollutants shall be an amount equal to the average BFWWC APCA "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 which meet the requirements for permitting under the air operating program as described in Article 4. Class 3 sources are subject to the fee schedule outlined in Section 10.08 of this Regulation.
- C. All gasoline facilities required by Article 9, Exhibit "A" 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 70.94.152-153 shall be required to file a Notice of Construction and Application for Approval (NOC). A filing fee of \$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 which locate temporarily at particular sites within the Authority's jurisdiction, a Notice of Intent to Operate and Application for Approval must be filed with the Authority. A fee of \$100.00 shall be paid at the time of filing the Notice of Intent to operate.
- C. In addition to the filing fees provided in "A" and "B" above, 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 first pay the Threshold Determination fee of \$50.00 prior to undertaking 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 State Environmental Policy Act before taking any action on a Notice of Construction, 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 (as defined in WAC 403-110) shall be borne by the applicant or other initiator of the action.
- F. When an operation for which a Notice of Intent to Operate 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 Notice of Intent review. In such a case, an investigation fee of \$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 demolition or renovation activity required by federal regulation or Article 8 of this Regulation to notify the Authority prior to removal, 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(A), require a ten (10) working day advance notification on a written

"Notice of Intent to Remove or Encapsulate Asbestos Materials," and a \$50.00 fee.

2. Annual notices under Section 8.01 require ten (10) working day advance notification, an annual written application for approval, and a fee of \$300.00.
3. An amendment under Section 8.01 to an approved asbestos project requires prior notification, an amended application, and a \$25.00 fee for the 2nd amendment and any thereafter.
4. An emergency under Section 8.01 requires prior notification, an Emergency Waiver Request Letter submitted by the property owner, a Notice of Intent to Remove Asbestos, and a \$50.00 emergency fee as well as the normal application fee described in this Section.
5. A residential asbestos removal project under Section 8.02 requires prior notification, and a Residential Asbestos Removal Form accompanied by a filing fee of \$50.00.
6. A demolition project under Section 8.01 which contains no asbestos requires (10) working day advance notification.

Section 10.08 Operating Permit Fees

A. Interim Fee

1. Pursuant to RCW 70.94.161(14), the Authority shall collect interim fees from sources emitting one hundred or more tons per year of a regulated pollutant during fiscal year 1994 (July 1, 1993 to June 30, 1994), or until this Authority receives delegation to issue permits from the Environmental Protection Agency.
2. Pursuant to RCW 70.94.161, the Authority shall determine, assess, and collect annual fees sufficient to cover the direct and indirect costs of implementing the operating permit program. Ecology, too, will conduct a workload analysis determining its fiscal year 1994 costs and must allocate these costs among all sources in the state emitting one hundred tons or more of a regulated pollutant. The resulting fee is to be collected on behalf of Ecology by the local authority having jurisdiction over the particular source. Therefore, along with the local program fees, the Authority will also collect Ecology's development and oversight fees, and pass them on to Ecology.
3. The fee schedules developed shall fully cover and not exceed the permit administration costs and the program development and oversight costs. Both Ecology's and this Authority's fees are based on a 3 tier scale using fiscal year 1994 costs, and calendar year 1992 emissions data. The three tier formula used to assess fees for a given source includes:
 - a. The number of sources in the permit program;
 - b. The complexity of the source;

- c. The amount of emissions of regulated pollutants from the source.

Each category shall comprise one third (1/3) of the total fees collected by the Authority.

B. Permanent annual fee determination and certification

1. Fee Determination

- a. Fee Determination. The Benton Franklin Walla Walla Counties Air Pollution Control Authority (BFWWC APCA) 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 BFWWC APCA shall also collect its jurisdiction's share of the Washington State Department of Ecology's (Ecology) development and oversight costs. The fee schedule shall differentiate as separate line items the BFWWC APCA and Ecology's fees. Opportunities for public participation shall be afforded throughout the fee determination process, as provided in 10.08(B)(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 BFWWC APCA in administering and enforcing the operating permit program with respect to sources under its jurisdiction. 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 those enumerated in [Chapter 252, Laws of 1993 Section 6(2)(b)].

c. Workload Analysis.

- i. The BFWWC APCA 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 enumerated in Section 10.08(B)(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(B)(1)(b)(ii).
- d. Budget Development. The BFWWC APCA 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 BFWWC APCA 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(B)(3)(a). The BFWWC APCA shall publish a final budget for the following calendar year on or before June 30.
- e. Allocation Methodology.
 - i. Permit Administration Costs. The BFWWC APCA 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 BFWWC APCA, 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 BFWWC APCA 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 10.08(B)(4).

2. Fee Collection --Ecology and BFWWC APCA

- a. Collection from Sources. The BFWWC APCA, as a delegated local authority, shall collect the fees from the permit program sources under its jurisdiction.
 - i. Permit Administration Costs. The BFWWC APCA 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 BFWWC APCA 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 BFWWC APCA, as a delegated local authority, from permit program sources pursuant to RCW 70.94.152(1), 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), 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 BFWWC APCA on behalf of Ecology from permit program sources pursuant to RCW 70.94.152(1), 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), 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 BFWWC APCA shall provide for public participation in the fee determination process described under 10.08(B)(1), which provision shall include but not be limited to the following:
 - i. The BFWWC APCA 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 BFWWC APCA 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 BFWWC APCA 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 BFWWC APCA shall provide a minimum of 30 days for public comment on the draft annual workload analysis and draft annual budget. Such 30-day period for comment shall run from the date of publication of notice in the Permit Register as provided in 10.08(B)(3)(a)(ii).
- b. Tracking of Revenues, Time and Expenditures.
 - i. Revenues. The BFWWC APCA shall track revenues on a source-specific basis.

- ii. Time and Expenditures. The BFWWC APCA 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.
 - (A) The BFWWC APCA 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 10.08 (B) (1) (d)
 - (B) 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 each delegated local authority's operating permit program administration, as follows:
 - i. Fiscal Audits. The BFWWC APCA shall contract with the State Auditor to have the Auditor perform a standard fiscal audit of its operating permit program every other year.
 - ii. Annual Routine Performance Audits. The BFWWC APCA shall be subject to annual routine performance audits, except that the routine audit shall be incorporated into the extensive performance audit, conducted pursuant to 10.08(B)(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 local authority audits.
 - iii. Annual Random Individual Permit Review. One permit issued by the BFWWC APCA 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 local authority review.
 - iv. Periodic Extensive Performance Audits. The BFWWC APCA 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 10.08(B)(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 BFWWC APCA 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 10.08(B)(3)(c)(iv).

- vi. Annual Reports. The BFWWC APCA 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 BFWWC APCA shall submit its report to its Board of Directors and to Ecology.

4. Administrative Dispute Resolution

- a. Preliminary Statement of Source Data. The BFWWC APCA 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 10.08(B)(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 10.08(B)(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 BFWWC APCA, as a delegated local authority, may petition to review for accuracy the data contained in the preliminary source data statement provided for under 10.08(B)(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 BFWWC APCA may direct inquiries regarding the request. Upon receipt of such a petition, the BFWWC APCA, 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 BFWWC APCA 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 10.08(B)(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 10.08(B)(4)(c). Such fee shall be due on or before February 28 of each year.
- b. Late Payment of Fees. BFWWC APCA 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 BFWWC APCA 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 10.08(B)(5)(b) and (c), are additional to and in no way prejudice the BFWWC APCA'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 each delegated local 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. Each delegated local 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 \$50.00.
- B. Upon approval of the 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. 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.