

Effective Date: 08/01/2019  
Expiration Date: 08/01/2024

Hanford Air Operating Permit  
Permit No. 00-05-006  
Renewal 3

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**STATEMENT OF BASIS  
HANFORD SITE AIR OPERATING PERMIT  
NO. 00-05-006  
RENEWAL 3  
ATTACHMENT 3  
BENTON CLEAN AIR AGENCY PERMIT**

Effective Date: 08/01/2019  
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Hanford Air Operating Permit  
Permit No. 00-05-006  
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11 This attachment includes regulatory requirements at the Hanford Site for outdoor burning enforced by the  
12 Benton Clean Air Agency (BCAA). In 1994, the Washington State Department of Ecology (Ecology)  
13 delegated outdoor burning regulatory responsibilities to BCAA. The text of the March 11, 1994  
14 delegation letter from Ecology to BCAA is provided in this statement of basis (Enclosure 1).  
15

16 Since the issuance of the delegation letter in 1994, a number of personnel and terminology changes have  
17 taken place. Specific changes, although not affecting regulatory delegation, are summarized below:  
18

- 19       1. The Benton-Franklin Counties Clean Air Agency (BFCCAA) was renamed Benton Clean Air  
20        Authority (BCAA) in January 1995 due to reorganization. The organization’s name was further  
21        revised on September 20<sup>th</sup> of 2007 from Benton Clean Air Authority (BCAA) to Benton Clean Air  
22        Agency (BCAA).
- 23       2. BCAA is currently located at 526 South Steptoe Street, Kennewick, WA, 99336.
- 24       3. “Open burning” was renamed “outdoor burning” in March 2000 by revising WAC 173-425.  
25

26 The March 11, 1994 delegation letter also delegated asbestos handling regulatory responsibility to BCAA.  
27 However, BCAA relinquished asbestos regulatory responsibility at the Hanford Site in 2016. Effective  
28 December 1, 2016, Ecology assumed responsibility and regulatory authority to ensure compliance with 40  
29 CFR Part 61, Subpart M, National Emission Standard for Asbestos, at the Hanford Site. A copy of the  
30 letter acknowledging BCAA’s relinquishment of asbestos regulatory authority, 16-NWP-205, is also  
31 provided as Enclosure 2.  
32

33 At the Hanford Site, BCAA enforces Washington Administrative Code 173-425 and BCAA Regulation 1,  
34 Article 5, regarding Outdoor Burning. Attachment 3 of the AOP identifies the BCAA outdoor burning  
35 requirements.

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- 1 Enclosure 1: The 1994 delegation letter from Ecology to BCAA for asbestos handling and outdoor
- 2 burning.

1 March 11, 1994

2

3 David A. Lauer, Director

4 Benton-Franklin Counties

5 Clean Air Authority

6 650 George Washington Way

7 Richland, WA 99352-4289

8

9 Dear Mr. Lauer:

10

11 Re: Delegation of Asbestos and Open Burning Regulatory Responsibility

12

13 After receiving your letter of December 15, 1993, regarding asbestos and open burning at the Hanford  
14 Site, I realized your immediate concern about these two issues. I have asked Mr. Joe Stohr, Manager of  
15 the Technical Assistance and Regulatory Coordination Section, to work on these issues.

16

17 In discussing this matter with Mr. Myron Saikewicz, Manager of the Engineering Section at Ecology's  
18 Air Quality Program, we agreed that the Benton-Franklin Counties Clean Air Authority (BFCCAA)  
19 should continue to handle asbestos and open burning issues at the Hanford Site. The Nuclear Waste  
20 Program is not planning to actively exercise its preemptive authority under RCW 70.105.240 and regulate  
21 asbestos and open burning at the Hanford Site. I feel that the Benton-Franklin Counties Clean Air  
22 Authority has the needed qualifications and experience to accomplish these regulatory functions at  
23 Hanford.

24

25 Ecology exercises "preemptive" authority for all regulatory functions at certain hazardous waste  
26 management facilities, including Hanford, based upon RCW 70.105.240. Since Hanford is a federal  
27 facility, Ecology exercises this authority only in areas where the federal government has waived its  
28 sovereign immunity. Under the Federal Clean Air Act, the federal government has waived sovereign  
29 immunity at Hanford. Ecology, therefore, can preempt local government or other state agencies in  
30 regulating asbestos and open burning at Hanford.

31

32 Ecology remains reluctant to assume preemptive responsibility in areas where local government is clearly  
33 qualified to accomplish such regulatory responsibilities and where it is more appropriate for Ecology to  
34 delegate such responsibility. In the case of asbestos and open burning regulations, I believe it is  
35 appropriate to delegate such authority to the BFCCAA. This delegation, therefore, extends to BFCCAA,  
36 the authority to ensure compliance with 40 CFR 61, Asbestos, Handling, Notifications, and Reporting,  
37 WAC 173-425, and applicable local regulations at the Hanford Site.

38

39 In order to further clarify the issues, I would like to respond to the questions addressed in your letter as  
40 follows:

41

42 1. The BFCCAA will continue to serve the role that your agency currently has as the  
43 recipient of asbestos notifications required under 40 CFR 61.145(b).

44

45 2. Ecology does not grant BFCCAA the authority to collect permit fees. The BFCCAA  
46 must decide for itself whether to collect such fees based on its regulatory authority.

47

48 3. Your agency will be responsible for permitting and inspecting fire training areas, and  
49 open burning at the Hanford Site.

50

1           4.       Your agency will be lead for enforcing the regulations regarding demolition by burning  
2 and for gaining compliance with the state open burning regulations at the Hanford Site. Mr. Dave  
3 Nylander of our Kennewick Office needs to be contacted by your office on these issues.  
4

5 Please be advised that Ecology can withdraw this delegation at any time. However, we will not exercise  
6 this option without providing prior notice to BFCCAA. In addition, we believe that RCW 70.105.240  
7 does not give Ecology the option of delegating its final decision-making authority over preempted  
8 matters, notwithstanding any delegation to exercise day-to-day regulatory responsibility. Therefore, we  
9 request that your office inform Mr. Dave Nylander of our Kennewick Office, prior to taking any final  
10 permitting or enforcement actions at Hanford.  
11

12 We look forward to a positive and cooperative working relationship with BFCCAA, as we work to assure  
13 the health and safety of the citizens of the state. Questions regarding this matter should be addressed to  
14 Mr. Bob King at (206) 407-7147. Thank you for bringing this matter to our attention.  
15

16 Sincerely,  
17  
18

19                   Original signed by Dru Butler  
20

21 Dru Butler  
22 Program Manager  
23 Nuclear Waste Program  
24

25 DB:BK:db  
26

27 cc: James Bauer, DOE-RL  
28  
29

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- 1 Enclosure 2: The 2016 letter from Ecology to BCAA acknowledging the relinquishment of asbestos
- 2 regulatory responsibility and delegation of outdoor burning regulatory responsibility.
- 3

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STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

3100 Port of Benton Blvd • Richland, WA 99354 • (509) 372-7950  
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

November 30, 2016

16-NWP-205

Ms. Robin Bresley Priddy  
Benton Clean Air Agency  
526 South Steptoe Street  
Kennewick, Washington 99336

Re: Relinquishment of Asbestos Regulatory Responsibility from the Benton Clean Air Agency  
and Delegation of Outdoor Burning Regulatory Responsibility

References: See page 3

Dear Ms. Priddy:

Asbestos and outdoor burning regulatory responsibility at the Hanford Site was delegated to the Benton Clean Air Agency (BCAA) in a letter, dated March 11, 1994, from the Department of Ecology (Ecology) (Reference 1). BCAA informed Ecology it was relinquishing asbestos regulatory responsibility at the Hanford Site in a letter to Ecology, dated November 3, 2016 (Reference 2). Ecology acknowledges this relinquishment and will assume responsibility to regulate asbestos at the Hanford Site.

Ecology exercised preemptive authority for all regulatory functions at Hanford, based upon Revised Code of Washington (RCW) 70.105.240. Ecology remains reluctant to assume preemptive responsibility in areas where local government is clearly qualified to accomplish such regulatory responsibilities and where it is more appropriate for Ecology to delegate such responsibility. In the letter, dated March, 11, 1994, Ecology deemed it appropriate to delegate asbestos and outdoor burning regulations at the Hanford site to the BCAA.

Ecology will assume regulatory authority to ensure compliance with 40 CFR Part 61, Subpart M, National Emission Standard for Asbestos, effective December 1, 2016. This is at the request of BCAA and not Ecology exercising preemptive authority under RCW 70.105.240. If BCAA would like to resume regulatory authority of asbestos in the future, please notify Ecology to discuss reestablishment of the delegation.

The BCAA retains the delegated authority to ensure compliance with Washington Administrative Code 173-425, Outdoor Burning, and any applicable local regulations in regards to Outdoor Burning at the Hanford Site.



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Ms. Robin Bresley Priddy  
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To finalize the relinquishment of asbestos authority from BCAA, Ecology recommends that BCAA and the United States Department of Energy – Richland Operations Office discontinue the *Memorandum of Agreement Relating to Removal of Asbestos Materials and Demolitions on the Hanford Site* as it is currently written. Ecology is not a party to the Memorandum of Agreement, has no authority over the agreement, and is not bound by the agreement.

As specified in the March 11, 1994 letter, the following statements still apply to the delegation of outdoor burning regulatory responsibility:

- Ecology does not grant BCAA the authority to collect permit fees. BCAA must decide for itself whether to collect such fees based on its regulatory authority.
- BCAA will be responsible for permitting and inspecting fire training areas, and open burning at the Hanford Site.
- BCAA will be lead for enforcing the regulations regarding demolition by burning and for gaining compliance with the state open burning regulations at the Hanford Site. The Nuclear Waste Program needs to be contacted by BCAA on these issues.

Please be advised that Ecology can withdraw this delegation at any time. However, Ecology will not exercise this option without providing prior notice to BCAA. In addition, Ecology believes that RCW 70.105.240 does not give Ecology the option of delegating its final decision-making authority over preempted matters, notwithstanding any delegation to exercise day-to-day regulatory responsibility. Therefore, Ecology requests that BCAA inform the Nuclear Waste Program prior to taking any final permitting or enforcement actions at Hanford.

If you have any questions, please contact Philip Gent, Lead Air Engineer, at (509) 372-7983 or [philip.gent@ecy.wa.gov](mailto:philip.gent@ecy.wa.gov).

Sincerely,



Alexandra K. Smith  
Program Manager  
Nuclear Waste Program

lb/tkb

cc: See page 3

Ms. Robin Bresley Priddy  
November 30, 2016  
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16-NWP-205

References:

1. Letter dated March 11, 1994, from Dru Butler, Ecology, to David Lauer, Benton-Franklin Counties Clean Air Authority, "Delegation of Asbestos and Open Burning Regulatory Responsibility"
2. Letter dated November 3, 2016, from Robin Bresley Priddy, BCAA, to Alex Smith, Ecology, "Relinquishment of Role in Asbestos Program from the Benton Clean Air Agency to the Department of Ecology"

cc electronic:

Dennis Faulk, EPA  
Rhonda Snoddy, EPA  
Dennis Bowser, USDOE-ORP  
Bryan Trimberger, USDOE-ORP  
Eric Faust, USDOE-RL  
Robin Priddy, BCAA  
Reed Kaldor, MSA  
Jon Perry, MSA  
Ken Niles, ODOE  
Lilyann Bauder, Ecology  
Philip Gent, Ecology  
Daniel Heuston, Ecology  
Ron Skinnerland, Ecology  
Alex Smith, Ecology  
Environmental Portal  
Hanford Facility Operating Record  
USDOE-ORP Correspondence Control  
USDOE-RL Correspondence Control

cc: Rod Skeen, CTUIR  
Gabriel Bohnee, NPT  
Russell Jim, YN  
Steve Hudson, HAB  
Administrative Record  
NWP Central File