



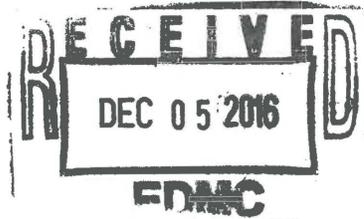
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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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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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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.

Sincerely,



Alexandra K. Smith
Program Manager
Nuclear Waste Program

lb/tkb

cc: See page 3

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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:

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Environmental Portal
Hanford Facility Operating Record
USDOE-ORP Correspondence Control
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cc: Rod Skeen, CTUIR
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Administrative Record
NWP Central File