



**Benton Clean Air Agency
Title V Program Review
(1st Round)**

EPA Region 10
Final September 26, 2024

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Attachments

- 1 Region 10 Program Review Kickoff Letter and Information Request to BCAA, January 26, 2023
- 2 BCAA Program Review Information Request Response, February 27, 2023
- 3 Title V Operating Permit System Data Summary as Reported by BCAA, July 31, 2023
- 4 BCAA Meeting Questionnaire, January 13/14, 2024
- 5 BCAA Report on Agreed-Upon Procedures from the Office of the Washington State Auditor, March 20, 2023

I. Introduction

This report documents the (2024) first review of the Benton Clean Air Agency's (BCAA's) title V permitting program. A title V program is an air permitting program for major stationary sources of air pollution and certain other sources designated by the Administrator as requiring a permit. Title V permits consolidate new source review permit conditions, state implementation plan requirements, federal standards, and other applicable requirements into one permit for ease of implementation.

BCAA's Title V Program

The Benton Clean Air Agency is a local air pollution control agency with jurisdiction in Benton County in southern Washington. EPA Region 10 would be the title V permitting authority on Tribal land if there were any federally recognized Indian country within the county. Within BCAA's county area, the Washington Department of Ecology would be the permitting authority for any chemical pulp mills and aluminum smelters and the Washington Energy Facility Site Evaluation Council (EFSEC) would be the permitting authority for any thermal electric energy projects that were at least 350 megawatts in size.

BCAA implements and enforces the Washington Administrative Code (WAC) State Air Pollution Control rules adopted by Ecology in Title 173 under chapter 70A.15 RCW, as in effect now and all future amendments, except where specific provisions of BCAA Regulation 1 apply. The EPA granted BCAA, along with Washington state, six other local agencies and EFSEC, interim approval of its title V program effective December 9, 1994, and full approval effective September 12, 2001, 66 FR 42439 (August 13, 2001).

State and local permitting authorities base their title V operating permits program on the part 70 rule. There are three part 70 sources operating within BCAA's jurisdiction, and BCAA has issued title V permits to all three of them. There is currently one permit writer who is responsible for writing title V permits as well as processing construction permits, attending source inspections, reviewing source test reports, reviewing compliance reports, reviewing emission inventories and other miscellaneous duties. There are other staff that provide management, administrative, enforcement and accounting support to the title V program.

Each permit is accompanied by a statement of basis (SoB) that explains the technical and legal basis for the permit.

Program Review Objective and Overview

The EPA initiated title V program reviews in response to recommendations in a 2002 Office of Inspector General audit. The general objective of broader program reviews (as opposed to individual permit reviews) is to identify good practices that other agencies can learn from, document areas needing improvement and learn how the EPA can help improve state and local title V programs and expedite permitting.

The EPA set an aggressive initial national goal of reviewing all state and local title V programs with ten or more title V sources. Here is the list of agencies in Region 10 reviewed in the first round along with the final report date and an approximate number of title V sources they regulated when reviewed:

<u>Permitting Authority (first round)</u>	<u>Report Date</u>	<u>Permits</u>
Idaho Department of Environmental Quality	January 2004	59
Oregon Department of Environmental Quality	June 2006	111
Lane Regional Air Protection Agency (OR)	June 2006	19
Spokane Regional Clean Air Agency (WA)	August 2006	10
Puget Sound Clean Air Agency (WA)	September 2006	35
Washington Department of Ecology	September 2006	27
Northwest Clean Air Agency (WA)	September 2006	21
Alaska Department of Environmental Conservation	September 2006	158
Olympic Region Clean Air Agency (WA)	September 2007	15
Southwest Clean Air Agency (WA)	September 2007	12

In response to a 2005 follow-up review by the Office of Inspector General, the EPA also committed to repeat the reviews of all title V programs with 20 or more title V sources every four years beginning in 2007. The original, second-round commitment covered each of the four state programs in Region 10 (Alaska, Idaho, Oregon and Washington) as well as two local agencies in Washington (Puget Sound Clean Air Agency and Northwest Clean Air Agency). In September 2016, that commitment was fulfilled and it was decided to continue second-round reviews for the remaining agencies that were reviewed in the first round but not yet reviewed for a second time.

Below is the list of agencies reviewed to date in the second round along with the final report date. All of the program review reports can be found on Region 10's air permitting website.¹

<u>Permitting Authority (second round)</u>	<u>Report Date</u>
Idaho Department of Environmental Quality	September 2007
Puget Sound Clean Air Agency (WA)	September 2008
Northwest Clean Air Agency (WA)	September 2013
Washington Department of Ecology	September 2014
Alaska Department of Environmental Conservation	September 2015
Oregon Department of Environmental Quality	September 2016
Lane Regional Air Protection Agency (OR)	September 2017
Spokane Regional Clean Air Agency (WA)	November 2018
Southwest Clean Air Agency (WA)	November 2019
Olympic Region Clean Air Agency (WA)	September 2020

In the first round of title V program reviews, EPA covered all major elements of a title V program. After the first-round review report was final, EPA Region 10 asked the permitting agencies to provide a response stating how the agency planned on resolving Region 10's concerns. In the second round of program reviews, EPA focused on the issues identified in the previous round specific to each permitting agency to evaluate how that agency was implementing its permitting program. We also considered permit issuance progress, resources, compliance assurance monitoring (CAM)² and how permitting authorities have integrated new requirements and rules into their permits and program. After the second-round reviews, we again asked the permitting agency to explain how our concerns would be addressed. Because

¹ <https://www.epa.gov/caa-permitting/permit-program-reviews-epa-region-10>

² CAM is required to be added to the renewed title V permit for most sources.

the focused approach used in the second round was both efficient and effective, a similar approach has been used during this third round of reviews for all title V programs (with the exception of Yakima Regional Clean Air Agency and Benton Clean Air Agency as it was their first round).

<u>Permitting Authority (third round)</u>	<u>Report Date</u>
Puget Sound Clean Air Agency (WA)	September 2022
Idaho Department of Environmental Quality	September 2023
Benton Clean Air Agency (WA, first round)	September 2024
Yakima Regional Clean Air Agency (WA, first round)	September 2024

To prepare for the review, the EPA Region 10 sent a November 9, 2023, kickoff letter, requesting specific information from BCAA (Attachment 1). Region 10 reviewed BCAA’s emailed responses (Attachment 2) which included a staff list, financial records, and the response to the questionnaire included in the kickoff letter. EPA Region 10 also reviewed the permit issuance data that BCAA reported semi-annually to the Title V Operating Permits System (Attachment 3). Due to Benton only having three permits and one permit writer, all title V permits were reviewed. The three permits reviewed are listed in the table below.

<u>Permit No.</u>	<u>Company Name & Location</u>	<u>Date Issued</u>
05-0003	The City of Richland Public Works Department - Horn Rapids Landfill	06/05/2023
04-01	Northwest Pipeline LLC Plymouth LNG Plant Compressor Station	08/14/2020
05-0002	Nutrien US LLC	04/03/2023

On January 31, 2024, EPA Region 10 staff interviewed BCAA permit writing staff and management on a virtual conference call (Attachment 4). The purpose of the interviews was to learn how the agency operates as well as to clarify and discuss what the EPA learned from the permit reviews and other information provided. The conference also included a discussion of permit issuance progress, program resources (and the fee program), general program implementation, and any specific issues identified during the review of Benton’s program.

Program Review Report Structure

This program review report is presented in five main sections:

- I. Introduction
- II. Evaluation of Program Review
- III. Additional Review
- IV. Summary

Section I presents background information regarding Benton’s title V program as well as an overview of Region 10’s program review plan. Section II presents Region 10’s evaluation of Benton’s program review except for CAM. Section III presents additional observations from Region 10’s review of Benton’s individual permits and other information provided. Finally, Section IV summarizes Region 10’s this round’s concerns.

II. Evaluation of Program Review

EPA Region 10 is evaluating BCAA's program for the first time in this third round of reviews. In this initial title V program review, Region 10 will provide observations divided into nine separate topic areas labeled A through I. The second and third round of program reviews for other agencies use similar labeling to identify concerns to maintain a consistency between the reports. Similar to the other first round review reports, this report will focus on recognizing both the agencies' good practices as well as identifying any areas of concern for the title V permitting program.

Section A. Title V Permit Preparation and Content

Good practices

1. BCAA staff regularly participate in quarterly Washington permit writers meetings, EPA-sponsored permitting workshops, and other events, trainings, and webinars and have good relationships with other Washington air permitting agencies. Actively participating in events outside their agency and building relationships with other organizations allows a small agency to benefit from others' experiences.
2. During staff interviews, permit writers explained how they create spreadsheets and tables to determine how federal standards such as NSPS and NESHAP apply.
3. It is generally easy to determine which permit conditions are, and which are not, federally enforceable.
4. The reviewed permits clearly list applicable requirements from the WAC and regulatory orders that apply to each of the emission units. Each requirement specifies the origin of the requirement, to which unit(s) it applies, whether any monitoring, maintenance & recordkeeping applies, and the reference test method, if applicable.
5. The three reviewed Statements of Basis (SoBs) included PTE summaries. Additional details about how each Potential to Emit (PTE) was determined are included in the SoB. This is useful information about the source and its possible impacts.
6. There was not excessive language pertaining to a permit shield. The permit shield was limited to the language found in WAC 173-401-530.
7. At least two of the SoBs contained detailed information about the source's permitting history. We encourage BCAA to include information about permitting history in SoBs to provide context to the public and to assist future permit writers with the source.
8. At least one SoB included several years of actual emissions. Including actual emissions for all facilities provides important information about potential impacts to the surrounding community.

Concerns

1. Two of the three permits reviewed clearly list and describe emission units located at the source in the permit. One of the permits did not contain a list or table of emission units in the permit. It is useful to have this upfront in the permit to easily identify what emission units are located at the source.

2. BCAA could provide spreadsheets that shows directly how potential and actual emissions were calculated as part of the publicly available administrative record.
3. The SOB of at least two permits clearly explain the applicability of several federal standards, such as New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants. In one of them however, the Emission Guidelines, part 60, subpart Cf, are listed in the table of contents but do not appear in the text of the document. It is clear, however, from discussion of the NSPS that the EG do not apply.
4. In one reviewed permit, it is not clear in the SoB or permit how the general provisions of part 60 or 63 apply to the source. Newer NSPS and NESHAPs include tables listing applicable paragraphs in the general provisions that permit writers can use as a starting point.
5. Although the SoB of at least one permit explains in broad terms that NSPS and NESHAP apply, it does not go into detail about how these standards apply or how they have been incorporated into the permit. Creating tables of applicable and inapplicable requirements in the SoB make it clear that inclusion of federal standards in the permit is complete and can be an aid to the permit writer (or future permit writer) when there are changes to the source and/or the regulation.
6. In one reviewed permit, several conditions in section 3 cite as their origin both NSPS and conditions from orders of approval. It is not clear whether the permit writer has streamlined multiple applicable requirements or if the several requirements were identical.
7. Although BCAA often goes into a permittee's construction history, the reviewed permits did not contain a discussion of a permittee's compliance history. Such a discussion would also provide useful context for the public and future permit writers.
8. Some permits include requirements such as State Reporting of Emissions of Greenhouse Gases, which is not federally enforceable and, therefore, not a part 70 applicable requirement, and, Federal Mandatory Greenhouse Gas Reporting, which is federally enforceable but not a part 70 applicable requirement. A part 70 authority may include such requirements in a permit, but it should be identified as not being part of the part 70 requirements.
9. In at least one reviewed permit, there was a discussion of the inapplicability of NSPS in the permit. This would be clearer if discussed in the SoB.
10. At least one reviewed permit did not consider the applicability of area source NESHAP such as subpart JJJJ (National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources) or subpart ZZZZ (National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines). This could result in the omission of applicable requirements.

Section B. General Permits

BCAA has not developed or issued any general permits.

Section C. Monitoring

Good practices

1. Several permits include both standard and unit-specific monitoring, maintenance, and recordkeeping procedures. These requirements are clearly stated and tied to the appropriate standards and equipment.
2. Recent permits include tables that demonstrate CAM applicability of pollutant specific emission units. They also include CAM discussions that illustrate CAM applicability for the source. In at least one reviewed permit where CAM was correctly determined to be applicable, the SoB describes in a detailed table how CAM is applicable for each emission unit pollutant by pollutant.

Concerns

1. In at least one reviewed permit, there is no explanation in the SoB as to whether either gap-filling or sufficiency monitoring had to be included in the permit. Because some standard monitoring conditions apply to SIP requirements that do not include monitoring (e.g., facility-wide scans to detect sources of visual emissions) it appears that there has been some gap filling.
2. Several permits require the permittee to update operation and maintenance plans. Although not all operating and monitoring parameters may be understood at the time of permit issuance, there needs to be adequate oversight of these plans. Furthermore, if relying on such plans to assure compliance, the permitting agency must have the authority to approve (and disapprove) them and to require updates if the plans are found to be inadequate to assure compliance.

Section D. Public Participation and Affected State Review

Good practices

1. BCAA routinely informs tribes and affected states when permits are available for public review. They use newspapers, email, and a physical mailing address as methods of communication for the public comment period.
2. BCAA posts copies of all title V permits and SoBs on its website.

Concerns

1. Like many other agencies, BCAA shares pre-draft copies of permits with permit applicants. BCAA should develop standard procedures for documenting this and any changes made to permits during pre-draft review.
2. It is not clear how a member of the public could ask to be informed about BCAA permitting actions. WAC 173-401-800(2)(c) requires permitting authorities to maintain a mailing list of persons requesting notice.
3. BCAA could not identify any additional public notice requirements resulting from Environmental Justice concerns (e.g., providing translated documents or interpreters for linguistically isolated groups). We encourage BCAA to perform additional EJ analyses and augment public notice procedures as needed.

Section E. Permit Issuance / Revision / Renewal

Good practices

1. According to BCAA's most recent TOPS report, the agency has no title V permitting backlog.
2. BCAA appears to have been successful in obtaining timely and complete renewal applications.

Concerns

1. It is not clear whether members of the public are informed of their right to challenge permits through state boards or to petition the Administrator to object.
2. Members of the public have no way of knowing when the EPA's 45-day review period begins or ends, triggering the timeline to petition the Administrator.
3. One issued permit contained placeholders for the dates when draft and final renewal applications are due.

Section F. Compliance

Good practices

1. Permits includes standard conditions requiring annual compliance certifications and semiannual monitoring reports.
2. Permits require prompt reporting of permit deviations and excess emissions. The permit defines what is meant by "prompt."
3. The most recently issued permit requires NSPS reporting through CDX. We encourage BCAA to require additional reporting through CDX in lieu of supplying a mailing address.

Concerns

1. In at least one permit, there were terms stating that the source is in compliance with all facility-wide and emission unit-specific requirements. Although the owner or operator may have certified compliance with all permit times when submitting its application, this is only a certification from the source at the time of application/permit issuance. The permit cannot make a blanket statement that the source is always in compliance.

Section G. Resources and Internal Management Support

Good practices

1. BCAA is able to adjust its permit fees each year so that fees and costs precisely match.

Concerns

1. BCAA has a very knowledgeable and experienced permit writer but needs to prepare for succession planning.
2. In at least one reviewed permit, the SoB included several error messages in the table of contents where page numbers should appear. Having additional staff members capable of proofreading documents could have eliminated these simple errors.

Section H. Title V Benefits

1. Writing and issuing title V permits has improved BCAA's understanding federal air requirements. This includes inspectors as well as permit writers.
2. Performing compliance evaluations for title V sources has improved BCAA's ability to write enforceable (which they called "inspectable") permit conditions.
3. BCAA reports that the three title V permit holders in their jurisdiction are receptive to and appreciate having all applicable requirements in a single document that is easy to reference and understand.
4. Permit renewal provides an opportunity to review compliance status and permitting actions related to title V sources as well as improving the knowledge base for major sources in the area.
5. Title V has resulted in emissions reductions in part due to sources becoming synthetic minor sources to avoid the title V program.

Section I. Document Review (Rules/Forms/Guidance)

1. BCAA uses an application checklist for their completeness review. The review includes looking at the rules, the previous permit (if applicable), the regulations and any compliance issues. They also look at any new NSPS, MACT, or any other rules that may have been updated since the previous permit renewal.
2. BCAA uses a standard renewal application form for the 3 facilities they have jurisdiction over. The form was created by BCAA staff but based on Ecology's forms.

III. Additional Review

This section of the first-round program review report presents Region 10's evaluation of BCAA's financials and any other concerns identified during the individual permit reviews.

Financials

Region 10 requested information from BCAA about program resources and permit issuance progress. In reviewing the agency's permit issuance progress and resources, including their fee program and staffing, we learn how the title V program is being managed. Permit issuance problems, namely large backlogs of unissued permits, are often linked to a lack of resources. BCAA reports their permit issuance progress semiannually. That data indicates BCAA's backlog had no outstanding initial permit applications and no permits that have been extended and have not yet been renewed.

BCAA provided Region 10 with recent budget data. BCAA uses generally accepted accounting principles (GAAP) account to accruing expenses and revenues to the period in which it was incurred or earned. All of the transactions are processed in a fund accounting system which tracks each source of funds and their respective approved expenses separately. BCAA's financial statements are audited by the Washington State's auditor's office and the latest report that was issued in March of 2023 found no significant findings (Attachment 5). BCAA charges fees on a calendar year basis and the Agency's fiscal year runs from July until June. BCAA uses a three-tier fee structure that is based on a base emission fee, emissions generated fee, and finally a

project complexity fee. This system seems to work in allowing the agency a lot of flexibility of determining their fees and expenses.

BCAA is currently staffed with one experienced title V staff member and one newer staff member starting to learn more of the air operating program. Staff are assigned to programs based on project needs which can include construction permits, the asbestos program, air operating permits and others. Staff retention is difficult to judge at the agency due to the low number of staff, but the experienced title V staff person that is currently employed has been there for over 25 years.

BCAA appears to manage their fees and expenses adequately. The agency had neither a negative balance nor an excessive amount of funds in reserve indicating that they are able to sufficiently balance their account every year. Region 10 has no concerns about BCAA's management of their resources.

V. Summary

This is BCAA's first round for program reviews. Region 10 has identified numerous good practices within the agency as well as twenty-one initial concerns that should be addressed.