

RCW 70A.15.3580 Limitations on burning wood for heat—First and second stage burn bans—Report on second stage burn ban—Exceptions—Emergency situations. (1) Any person in a residence or commercial establishment which has an adequate source of heat without burning wood shall:

(a) Not burn wood in any solid fuel burning device whenever the department has determined under RCW 70A.15.6010 that any air pollution episode exists in that area;

(b) Not burn wood in any solid fuel burning device except those which are either Oregon department of environmental quality phase II or United States environmental protection agency certified or certified by the department under RCW 70A.15.3530(1) or a pellet stove either certified or issued an exemption by the United States environmental protection agency in accordance with Title 40, Part 60 of the Code of Federal Regulations, in the geographical area and for the period of time that a first stage of impaired air quality has been determined, by the department or any authority, for that area.

(i) A first stage of impaired air quality is reached when forecasted meteorological conditions are predicted to cause fine particulate levels to exceed thirty-five micrograms per cubic meter, measured on a twenty-four hour average, within forty-eight hours, except for areas of fine particulate nonattainment or areas at risk for fine particulate nonattainment;

(ii) A first stage burn ban for impaired air quality may be called for a county containing fine particulate nonattainment areas or areas at risk for fine particulate nonattainment, and when feasible only for the necessary portions of the county, when forecasted meteorological conditions are predicted to cause fine particulate levels to reach or exceed thirty micrograms per cubic meter, measured on a twenty-four hour average, within seventy-two hours; and

(c) (i) Not burn wood in any solid fuel burning device in a geographical area and for the period of time that a second stage of impaired air quality has been determined by the department or any authority, for that area. A second stage of impaired air quality is reached when a first stage of impaired air quality has been in force and has not been sufficient to reduce the increasing fine particulate pollution trend, fine particulates are at an ambient level of twenty-five micrograms per cubic meter measured on a twenty-four hour average, and forecasted meteorological conditions are not expected to allow levels of fine particulates to decline below twenty-five micrograms per cubic meter for a period of twenty-four hours or more from the time that the fine particulates are measured at the trigger level.

(ii) A second stage burn ban may be called without calling a first stage burn ban only when all of the following occur and shall require the department or the local air pollution control authority calling a second stage burn ban under this subsection to comply with the requirements of subsection (3) of this section:

(A) Fine particulate levels have reached or exceeded twenty-five micrograms per cubic meter, measured on a twenty-four hour average;

(B) Meteorological conditions have caused fine particulate levels to rise rapidly;

(C) Meteorological conditions are predicted to cause fine particulate levels to exceed the thirty-five micrograms per cubic meter, measured on a twenty-four hour average, within twenty-four hours; and

(D) Meteorological conditions are highly likely to prevent sufficient dispersion of fine particulate.

(iii) In fine particulate nonattainment areas or areas at risk for fine particulate nonattainment, a second stage burn ban may be called for the county containing the nonattainment area or areas at risk for nonattainment, and when feasible only for the necessary portions of the county, without calling a first stage burn ban only when (c) (ii) (A), (B), and (D) of this subsection have been met and meteorological conditions are predicted to cause fine particulate levels to reach or exceed thirty micrograms per cubic meter, measured on a twenty-four hour average, within twenty-four hours.

(2) Actions of the department and local air pollution control authorities under this section shall preempt actions of other state agencies and local governments for the purposes of controlling air pollution from solid fuel burning devices, except where authorized by chapter 199, Laws of 1991.

(3) (a) The department or any local air pollution control authority that has called a second stage burn ban under the authority of subsection (1) (c) (ii) of this section shall, within ninety days, prepare a written report describing:

(i) The meteorological conditions that resulted in their calling the second stage burn ban;

(ii) Whether the agency could have taken actions to avoid calling a second stage burn ban without calling a first stage burn ban; and

(iii) Any changes the department or authority is making to its procedures of calling first stage and second stage burn bans to avoid calling a second stage burn ban without first calling a first stage burn ban.

(b) After consulting with affected parties, the department shall prescribe the format of such a report and may also require additional information be included in the report. All reports shall be sent to the department and the department shall keep the reports on file for not less than five years and available for public inspection and copying in accordance with RCW 42.56.090.

(4) For the purposes of chapter 219, Laws of 2012, an area at risk for nonattainment means an area where the three-year average of the annual ninety-eighth percentile of twenty-four hour fine particulate values is greater than twenty-nine micrograms per cubic meter, based on the years 2008 through 2010 monitoring data.

(5) (a) Nothing in this section restricts a person from installing or repairing a certified solid fuel burning device approved by the department under the program established under RCW 70A.15.3530 in a residence or commercial establishment or from replacing a solid fuel burning device with a certified solid fuel burning device. Nothing in this section restricts a person from burning wood in a solid fuel burning device, regardless of whether a burn ban has been called, if there is an emergency power outage. In addition, for the duration of an emergency power outage, nothing restricts the use of a solid fuel burning device or the temporary installation, repair, or replacement of a solid fuel burning device to prevent the loss of life, health, or business.

(b) For the purposes of this subsection, an emergency power outage includes:

(i) Any natural or human-caused event beyond the control of a person that leaves the person's residence or commercial establishment temporarily without an adequate source of heat other than the solid fuel burning device; or

(ii) A natural or human-caused event for which the governor declares an emergency in an area under chapter 43.06 RCW, including a public disorder, disaster, or energy emergency under RCW 43.06.010(12). [2020 c 20 § 1119; 2016 c 187 § 1; 2012 c 219 § 1; 2008 c 40 § 1; 2007 c 339 § 1; 2005 c 197 § 1; 1998 c 342 § 8; 1995 c 205 § 1; 1991 c 199 § 504; 1990 c 128 § 2; 1987 c 405 § 6. Formerly RCW 70.94.473.]

Finding—1991 c 199: See note following RCW 70A.15.1005.

Severability—1987 c 405: See note following RCW 70A.15.3500.