

RCW 70A.15.3600 Limitations on use of solid fuel burning

devices. (1) Unless allowed by rule under chapter 34.05 RCW, a person shall not cause or allow any of the following materials to be burned in any residential solid fuel burning device:

- (a) Garbage;
- (b) Treated wood;
- (c) Plastics;
- (d) Rubber products;
- (e) Animals;
- (f) Asphaltic products;
- (g) Waste petroleum products;
- (h) Paints; or

(i) Any substance, other than properly seasoned fuel wood, which normally emits dense smoke or obnoxious odors.

(2) To achieve and maintain attainment in areas of nonattainment for fine particulates in accordance with section 172 of the federal clean air act, a local air pollution control authority or the department may, after meeting requirements in subsection (3) of this section, prohibit the use of solid fuel burning devices, except:

(a) Fireplaces as defined in RCW 70A.15.3510(3), except if needed to meet federal requirements as a contingency measure in a state implementation plan for a fine particulate nonattainment area;

(b) Woodstoves meeting the standards set forth in RCW 70A.15.3580(1)(b); or

(c) Pellet stoves.

(3) Prior to prohibiting the use of solid fuel burning devices under subsection (2) of this section, the department or the local air pollution control authority must:

(a) Seek input from any city, county, or jurisdictional health department affected by the proposal to prohibit the use of solid fuel burning devices; and

(b) Make written findings that:

(i) The area is designated as an area of nonattainment for fine particulate matter by the United States environmental protection agency, or is in maintenance status under that designation;

(ii) Emissions from solid fuel burning devices in the area are a major contributing factor for violating the national ambient air quality standard for fine particulates; and

(iii) The area has an adequately funded program to assist low-income households to secure an adequate source of heat, which may include woodstoves meeting the requirements of RCW 70A.15.3510(7).

(4) If and only if the nonattainment area is within the jurisdiction of the department and the legislative authority of a city or county within the area of nonattainment formally expresses concerns with the department's written findings, then the department must publish on the department's website the reasons for prohibiting the use of solid fuel burning devices under subsection (2) of this section that includes a response to the concerns expressed by the city or county legislative authority.

(5) When a local air pollution control authority or the department prohibits the use of solid fuel burning devices as authorized by this section, the cities, counties, and jurisdictional health departments serving the area shall cooperate with the department or local air pollution control authority as the department or the local air pollution control authority implements the prohibition. The responsibility for actual enforcement of the prohibition shall reside solely with the department or the local air

pollution control authority. A city, county, or jurisdictional health department serving a fine particulate nonattainment area may agree to assist with enforcement activities.

(6) A prohibition issued by a local air pollution control authority or the department under this section shall not apply to:

(a) A person in a residence or commercial establishment that does not have an adequate source of heat without burning wood; or

(b) A person with a shop or garage that is detached from the main residence or commercial establishment that does not have an adequate source of heat in the detached shop or garage without burning wood.

(7) On June 7, 2012, and prior to January 1, 2015, the local air pollution control authority or the department shall, within available resources, provide assistance to households using solid fuel burning devices to reduce the emissions from those devices or change out to a lower emission device. Prior to the effective date of a prohibition, as defined in this section, on the use of uncertified stoves, the department or local air pollution control authority shall provide public education in the nonattainment area regarding how households can reduce their emissions through cleaner burning practices, the importance of respecting burn bans, and the opportunities for assistance in obtaining a cleaner device. If the area is designated as a nonattainment area as of January 1, 2015, or if required by the United States environmental protection agency, the local air pollution control authority or the department may prohibit the use of uncertified devices.

(8) As used in this section:

(a) "Jurisdictional health department" means a city, county, city-county, or district public health department.

(b) "Prohibit the use" or "prohibition" may include requiring disclosure of an uncertified device, removal, or rendering inoperable, as may be approved by rule by a local air pollution control authority or the department. The effective date of such a rule may not be prior to January 1, 2015. However, except as provided in RCW 64.06.020 relating to the seller disclosure of wood burning appliances, any such prohibition may not include imposing separate time of sale obligations on the seller or buyer of real estate as part of a real estate transaction. [2020 c 20 § 1121; 2012 c 219 § 2; 2009 c 282 § 1; 1995 c 205 § 2; 1990 c 128 § 3; 1987 c 405 § 9. Formerly RCW 70.94.477.]

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