

# **Appendix 14. Statutory and Administrative Changes to RCW and WAC governing Silvicultural Smoke Management**

## **Revised Code of Washington**

### **52.12.103**

No change since publication of 1998 SMP

### **52.12.104**

No change since publication of 1998 SMP

### **76.04.005**

No changes since 2015

### **76.04.165**

No change since adoption of 1998 Smoke Management Plan

### **76.04.205**

**2018**

Amended to Amended to provide DNR with civil enforcement authority. See SHB 1423, next page

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1423**

Chapter 132, Laws of 2021

67th Legislature  
2021 Regular Session

DEPARTMENT OF NATURAL RESOURCES BURNING PERMITS—CIVIL PENALTY

EFFECTIVE DATE: July 25, 2021

Passed by the House March 1, 2021  
Yeas 95 Nays 2

LAURIE JINKINS

**Speaker of the House of  
Representatives**

Passed by the Senate April 11, 2021  
Yeas 44 Nays 5

DENNY HECK

**President of the Senate**

Approved April 26, 2021 2:19 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1423** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

April 26, 2021

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 1423**

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Passed Legislature - 2021 Regular Session

**State of Washington                      67th Legislature                      2021 Regular Session**

**By** House Environment & Energy (originally sponsored by Representatives Fitzgibbon, Springer, and Dent; by request of Department of Natural Resources)

READ FIRST TIME 02/15/21.

1            AN ACT Relating to smoke management civil enforcement; amending  
2 RCW 70A.15.3160 and 76.04.205; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.** RCW 70A.15.3160 and 2020 c 20 s 1112 are each amended to  
5 read as follows:

6            (1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and  
7 43.05.150, and in addition to or as an alternate to any other penalty  
8 provided by law, any person who violates any of the provisions of  
9 this chapter, chapter 70A.25 or 70A.450 RCW, RCW 70A.45.080 or  
10 76.04.205, or any of the rules in force under such chapters or  
11 section may incur a civil penalty in an amount not to exceed ten  
12 thousand dollars per day for each violation. Each such violation  
13 shall be a separate and distinct offense, and in case of a continuing  
14 violation, each day's continuance shall be a separate and distinct  
15 violation. Enforcement actions related to violations of RCW 76.04.205  
16 must be consistent with the provisions of RCW 76.04.205.

17            (b) Any person who fails to take action as specified by an order  
18 issued pursuant to this chapter shall be liable for a civil penalty  
19 of not more than ten thousand dollars for each day of continued  
20 noncompliance.

1 (2) (a) Penalties incurred but not paid shall accrue interest,  
2 beginning on the ninety-first day following the date that the penalty  
3 becomes due and payable, at the highest rate allowed by RCW 19.52.020  
4 on the date that the penalty becomes due and payable. If violations  
5 or penalties are appealed, interest shall not begin to accrue until  
6 the thirty-first day following final resolution of the appeal.

7 (b) The maximum penalty amounts established in this section may  
8 be increased annually to account for inflation as determined by the  
9 state office of the economic and revenue forecast council.

10 (3) Each act of commission or omission which procures, aids or  
11 abets in the violation shall be considered a violation under the  
12 provisions of this section and subject to the same penalty. The  
13 penalties provided in this section shall be imposed pursuant to RCW  
14 43.21B.300.

15 (4) All penalties recovered under this section by the department  
16 or the department of natural resources shall be paid into the state  
17 treasury and credited to the air pollution control account  
18 established in RCW 70A.15.1010 or, if recovered by the authority,  
19 shall be paid into the treasury of the authority and credited to its  
20 funds. If a prior penalty for the same violation has been paid to a  
21 local authority, the penalty imposed by the department under  
22 subsection (1) of this section shall be reduced by the amount of the  
23 payment.

24 (5) To secure the penalty incurred under this section, the state  
25 or the authority shall have a lien on any vessel used or operated in  
26 violation of this chapter which shall be enforced as provided in RCW  
27 60.36.050.

28 (6) Public or private entities that are recipients or potential  
29 recipients of department grants, whether for air quality related  
30 activities or not, may have such grants rescinded or withheld by the  
31 department for failure to comply with provisions of this chapter.

32 (7) In addition to other penalties provided by this chapter,  
33 persons knowingly under-reporting emissions or other information used  
34 to set fees, or persons required to pay emission or permit fees who  
35 are more than ninety days late with such payments may be subject to a  
36 penalty equal to three times the amount of the original fee owed.

37 (8) The department shall develop rules for excusing excess  
38 emissions from enforcement action if such excess emissions are  
39 unavoidable. The rules shall specify the criteria and procedures for  
40 the department and local air authorities to determine whether a

1 period of excess emissions is excusable in accordance with the state  
2 implementation plan.

3 **Sec. 2.** RCW 76.04.205 and 1986 c 100 s 17 are each amended to  
4 read as follows:

5 (1) Except in certain areas designated by the department or as  
6 permitted under rules adopted by the department, a person shall have  
7 a valid written burning permit obtained from the department to burn:

8 (a) Any flammable material on any lands under the protection of  
9 the department; or

10 (b) Refuse or waste forest material on forestlands protected by  
11 the department.

12 (2) To be valid a permit must be signed by both the department  
13 and the permittee. Conditions may be imposed in the permit for the  
14 protection of life, property, or air quality and (~~{the department}~~)  
15 the department may suspend or revoke the permits when conditions  
16 warrant. A permit shall be effective only under the conditions and  
17 for the period stated therein. Signing of the permit shall indicate  
18 the permittee's agreement to and acceptance of the conditions of the  
19 permit.

20 (3) The department may inspect or cause to be inspected the area  
21 involved and may issue a burning permit if:

22 (a) All requirements relating to firefighting equipment, the work  
23 to be done, and precautions to be taken before commencing the burning  
24 have been met;

25 (b) No unreasonable danger will result; and

26 (c) Burning will be done in compliance with air quality standards  
27 established by chapter (~~(70.94)~~) 70A.15 RCW.

28 (4) The department, authorized employees thereof, or any warden  
29 or ranger may refuse, revoke, or postpone the use of permits to burn  
30 when necessary for the safety of adjacent property or when necessary  
31 in their judgment to prevent air pollution as provided in chapter  
32 (~~(70.94)~~) 70A.15 RCW.

33 (5) Any person who violates this section, any permit issued under  
34 this section, any rules that implement this section, or the  
35 silvicultural burning provisions set forth in chapter 70A.15 RCW, may  
36 incur a civil penalty pursuant to RCW 70A.15.3160. The department  
37 shall adopt a rule that establishes: (a) A framework for resolving  
38 conflicts that may arise related to this section, including the  
39 issuance of civil penalties pursuant to RCW 70A.15.3160 for

1 violations of this section; and (b) the method by which penalties  
2 issued pursuant to RCW 70A.15.3160 for violations of this section  
3 will be calculated. The department shall conduct a public process to  
4 solicit input on the development of the rule.

Passed by the House March 1, 2021.

Passed by the Senate April 11, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

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## **70A.15.1005**

### **2020**

70.94.011 Declaration of public policies and purpose.

[1991 c 199 § 102; 1973 1st ex.s. c 193 § 1; 1969 ex.s. c 168 § 1; 1967 c 238 § 1.]

Recodified as RCW 70A.15.1005 pursuant to 2020 c 20 § 2010.

## **70A.15.1030**

### **2020**

70.94.033 Environmental excellence program agreements-Effect on chapter.

[1997 c 381 § 21.]

Recodified as RCW 70A.15.1040 pursuant to 2020 c 20 § 2010.

## **70A.15.1070**

### **2020**

70.94.040 Causing or permitting air pollution unlawful-Exception.

[2020 c 20 § 1082; 1980 c 175 § 2; 1967 c 238 § 3; 1957 c 232 § 4.]

Recodified as RCW 70A.15.1070 pursuant to 2020 c 20 § 2010.

## **70A.15.2310**

### **2020**

70.94.181 Variances-Application for-Considerations-Limitations-Renewals-Review.

[2020 c 20 § 1098; 1991 c 199 § 306; 1983 c 3 § 176; 1974 ex.s. c 59 § 1; 1969 ex.s. c 168 § 22; 1967 c 238 § 31.]

Recodified as RCW 70A.15.2310 pursuant to 2020 c 20 § 2010.

## **70A.15.3160**

### **2021**

Amended to provide DNR with civil enforcement authority. See SHB 1423 in this appendix

### **2020**

70.94.431 Civil penalties-Excusable excess emissions.

[2020 c 20 § 1112; 2019 c 284 § 5; 2013 c 51 § 6; 1995 c 403 § 630; 1991 c 199 § 311; 1990 c 157 § 1; 1987 c 109 § 19; 1984 c 255 § 2; 1973 1st ex.s. c 176 § 2; 1969 ex.s. c 168 § 53.]

Recodified as RCW 70A.15.3160 pursuant to 2020 c 20 § 2010.

## **70A.15.3580**

### **2020**

70.94.473 Limitations on burning wood for heat-First and second stage burn bans-Report on second stage burn ban-Exceptions-Emergency situations.

[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.]

Recodified as RCW 70A.15.3580 pursuant to 2020 c 20 § 2010.

## **70A.15.5000**

**2020**

70.94.6511 Definition of "outdoor burning."

[2009 c 118 § 101.]

Recodified as RCW 70A.15.5000 pursuant to 2020 c 20 § 2010.

## **70A.15.5010**

**2020**

70.94.6512 Outdoor burning-Fires prohibited-Exceptions.

[2020 c 20 § 1133; 2009 c 118 § 102; 1995 c 362 § 2; 1991 c 199 § 410; 1974 ex.s. c 164 § 1; 1973 2nd ex.s. c 11 § 1; 1973 1st ex.s. c 193 § 9. Formerly RCW 70.94.775.]

Recodified as RCW 70A.15.5010 pursuant to 2020 c 20 § 2010.

## **70A.15.5020**

**2020**

70.94.743 Outdoor burning — Areas where prohibited — Exceptions — Use for management of storm or flood-related debris — Silvicultural burning.

[2009 c 118 § 103; 2004 c 213 § 1; 2001 1st sp.s. c 12 § 1; 1998 c 68 § 1; 1997 c 225 § 1; 1991 c 199 § 402.]

Recodified as RCW 70.94.6514 pursuant to 2009 c 118 § 802.

**2019**

See Second Substitute House Bill 1784, next page, setting goals to assess and implement treatments on forestlands.



CERTIFICATION OF ENROLLMENT  
**SECOND SUBSTITUTE HOUSE BILL 1784**

Chapter 305, Laws of 2019

66th Legislature  
2019 Regular Session

WILDFIRE PREVENTION--VARIOUS PROVISIONS

EFFECTIVE DATE: July 28, 2019

Passed by the House April 18, 2019  
Yeas 94 Nays 0

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate April 16, 2019  
Yeas 48 Nays 0

CYRUS HABIB

**President of the Senate**

Approved May 8, 2019 3:47 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1784** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

May 13, 2019

**Secretary of State  
State of Washington**

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**SECOND SUBSTITUTE HOUSE BILL 1784**

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AS AMENDED BY THE SENATE

Passed Legislature - 2019 Regular Session

**State of Washington                      66th Legislature                      2019 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Kretz, Blake, and Shea)

READ FIRST TIME 03/01/19.

1            AN ACT Relating to wildfire prevention; amending RCW 76.06.200,  
2 76.04.015, 70.94.6514, 70.94.6524, 70.94.6534, 70.94.6536, and  
3 70.94.6538; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 76.06.200 and 2017 c 95 s 1 are each amended to read  
6 as follows:

7            (1) The department must establish a forest health assessment and  
8 treatment framework designed to proactively and systematically  
9 address the forest health issues facing the state. Specifically, the  
10 framework must endeavor to achieve an initial goal of assessing and  
11 treating one million acres of land by 2033.

12            (2) The department must utilize the framework to assess and treat  
13 acreage in an incremental fashion each biennium. The framework  
14 consists of three elements: Assessment; treatment; and progress  
15 review and reporting.

16            (a) Assessment. Each biennium, the department must identify and  
17 assess two hundred thousand acres of fire prone lands and communities  
18 that are in need of forest health treatment, including the use of  
19 prescribed fire or mechanical treatment, such as thinning.

20            (i) The scope of the assessment must include lands protected by  
21 the department as well as lands outside of the department's fire

1 protection responsibilities that could pose a high risk to department  
2 protected lands during a fire.

3 (ii) The assessment must identify areas in need of treatment, the  
4 type or types of treatment recommended, data and planning needs to  
5 carry out recommended treatment, and the estimated cost of  
6 recommended treatment.

7 (b) Treatment. Each biennium, the department must review  
8 previously completed assessments and prioritize and conduct as many  
9 identified treatments as possible using appropriations provided for  
10 that specific purpose.

11 (c) Progress review and reporting. By December 1st of each even-  
12 numbered year, the department must provide the appropriate committees  
13 of the legislature and the office of financial management with:

14 (i) A request for appropriations designed to implement the  
15 framework in the following biennium, including assessment work and  
16 conducting treatments identified in previously completed assessments;

17 (ii) A prioritized list and brief summary of treatments planned  
18 to be conducted under the framework with the requested  
19 appropriations, including relevant information from the assessment;  
20 and

21 (iii) A list and brief summary of treatments carried out under  
22 the framework in the preceding biennium, including total funding  
23 available, costs for completed treatment, and treatment outcomes. The  
24 summary must include any barriers to framework implementation and  
25 legislative or administrative recommendations to address those  
26 barriers.

27 (3) In developing and implementing the framework, the department  
28 must:

29 (a) Utilize and build on the forest health strategic planning  
30 initiated under section 308(11), chapter 36, Laws of 2016 sp. sess.,  
31 to the maximum extent practicable, to promote the efficient use of  
32 resources; (~~and~~)

33 (b) Prioritize, to the maximum extent practicable consistent with  
34 this section, forest health treatments that are strategically planned  
35 to serve the dual benefits of forest health maximization while  
36 providing geographically planned tools for wildfire response; and

37 (c) Establish a forest health advisory committee to assist in  
38 developing and implementing the framework. The committee may: (i)  
39 Include representation from large and small forest landowners,  
40 wildland fire response organizations, milling and log transportation

1 industries, forest collaboratives that may exist in the affected  
2 areas, highly affected communities and community preparedness  
3 organizations, conservation groups, and other interested parties  
4 deemed appropriate by the commissioner; and (ii) consult with  
5 relevant local, state, and federal agencies, and tribes.

6 (4) In implementing subsection (3)(b) of this section, the  
7 department shall attempt to locate and design forest health  
8 treatments in such a way as to provide wildfire response personnel  
9 with strategically located treated areas to assist with managing fire  
10 response. These areas must attempt to maximize the firefighting  
11 benefits of natural and artificial geographic features and be located  
12 in areas that prioritize the protection of commercially managed lands  
13 from fires originating on public land.

14 (5) The department must establish and implement the forest health  
15 assessment and treatment framework within the appropriations  
16 specifically provided for this purpose.

17 **Sec. 2.** RCW 76.04.015 and 2016 c 109 s 1 are each amended to  
18 read as follows:

19 (1) The department may, at its discretion, appoint trained  
20 personnel possessing the necessary qualifications to carry out the  
21 duties and supporting functions of the department and may determine  
22 their respective salaries.

23 (2) The department shall have direct charge of and supervision of  
24 all matters pertaining to the forest fire service of the state.

25 (3) The department shall:

26 (a) Enforce all laws within this chapter;

27 (b) Be empowered to take charge of and, consistent with RCW  
28 76.04.021, direct the work of suppressing forest fires;

29 (c)(i) Investigate the origin and cause of all forest fires to  
30 determine whether either a criminal act or negligence by any person,  
31 firm, or corporation caused the starting, spreading, or existence of  
32 the fire. In conducting investigations, the department shall work  
33 cooperatively, to the extent possible, with utilities, property  
34 owners, and other interested parties to identify and preserve  
35 evidence. Except as provided otherwise in this subsection, the  
36 department in conducting investigations is authorized, without court  
37 order, to take possession or control of relevant evidence found in  
38 plain view and belonging to any person, firm, or corporation. To the  
39 extent possible, the department shall notify the person, firm, or

1 corporation of its intent to take possession or control of the  
2 evidence. The person, firm, or corporation shall be afforded  
3 reasonable opportunity to view the evidence and, before the  
4 department takes possession or control of the evidence, also shall be  
5 afforded reasonable opportunity to examine, document, and photograph  
6 it. If the person, firm, or corporation objects in writing to the  
7 department's taking possession or control of the evidence, the  
8 department must either return the evidence within seven days after  
9 the day on which the department is provided with the written  
10 objections or obtain a court order authorizing the continued  
11 possession or control.

12 (ii) Absent a court order authorizing otherwise, the department  
13 may not take possession or control of evidence over the objection of  
14 the owner of the evidence if the evidence is used by the owner in  
15 conducting a business or in providing an electric utility service and  
16 the department's taking possession or control of the evidence would  
17 substantially and materially interfere with the operation of the  
18 business or provision of electric utility service.

19 (iii) Absent a court order authorizing otherwise, the department  
20 may not take possession or control of evidence over the objection of  
21 an electric utility when the evidence is not owned by the utility but  
22 has caused damage to property owned by the utility. However, this  
23 subsection (3)(c)(iii) does not apply if the department has notified  
24 the utility of its intent to take possession or control of the  
25 evidence and provided the utility with reasonable time to examine,  
26 document, and photograph the evidence.

27 (iv) Only personnel qualified to work on electrical equipment may  
28 take possession or control of evidence owned or controlled by an  
29 electric utility;

30 (d) Furnish notices or information to the public calling  
31 attention to forest fire dangers and the penalties for violation of  
32 this chapter;

33 (e) Be familiar with all timbered and cut-over areas of the  
34 state, areas where forest health treatments were undertaken on state,  
35 federal, or private land, public general transportation roads and  
36 public and private logging roads, water bodies, and other features on  
37 the landscape relevant in planning a fire response and include those  
38 features on a geographic information system for use by fire response  
39 personnel to assist in response decision making;

1 (f) Maximize the effective utilization of local fire suppression  
2 assets consistent with RCW 76.04.181; and

3 (g) Regulate and control the official actions of its employees,  
4 the wardens, and the rangers.

5 (4) The department may:

6 (a) Authorize all needful and proper expenditures for forest  
7 protection;

8 (b) Adopt rules consistent with this section for the prevention,  
9 control, and suppression of forest fires as it considers necessary  
10 including but not limited to: Fire equipment and materials; use of  
11 personnel; and fire prevention standards and operating conditions  
12 including a provision for reducing these conditions where justified  
13 by local factors such as location and weather;

14 (c) Remove at will the commission of any ranger or suspend the  
15 authority of any warden;

16 (d) Inquire into:

17 (i) The extent, kind, value, and condition of all timberlands  
18 within the state;

19 (ii) The extent to which timberlands are being destroyed by fire  
20 and the damage thereon;

21 (e) Provide fire detection, prevention, presuppression, or  
22 suppression services on nonforested public lands managed by the  
23 department or another state agency, but only to the extent that  
24 providing these services does not interfere with or detract from the  
25 obligations set forth in subsection (3) of this section. If the  
26 department provides fire detection, prevention, presuppression, or  
27 suppression services on nonforested public lands managed by another  
28 state agency, the department must be fully reimbursed for the work  
29 through a cooperative agreement as provided for in RCW 76.04.135(1).

30 (5) Any rules adopted under this section for the suppression of  
31 forest fires must include a mechanism by which a local fire  
32 mobilization radio frequency, consistent with RCW 43.43.963, is  
33 identified and made available during the initial response to any  
34 forest fire that crosses jurisdictional lines so that all responders  
35 have access to communications during the response. Different initial  
36 response frequencies may be identified and used as appropriate in  
37 different geographic response areas. If the fire radio communication  
38 needs escalate beyond the capability of the identified local radio  
39 frequency, the use of other available designated interoperability  
40 radio frequencies may be used.

1 (6) When the department considers it to be in the best interest  
2 of the state, it may cooperate with any agency of another state, the  
3 United States or any agency thereof, the Dominion of Canada or any  
4 agency or province thereof, and any county, town, corporation,  
5 individual, or Indian tribe within the state of Washington in forest  
6 firefighting and patrol.

7 **Sec. 3.** RCW 70.94.6514 and 2009 c 118 s 103 are each amended to  
8 read as follows:

9 (1) Consistent with the policy of the state to reduce outdoor  
10 burning to the greatest extent practical, outdoor burning shall not  
11 be allowed in:

12 (a) Any area of the state where federal or state ambient air  
13 quality standards are exceeded for pollutants emitted by outdoor  
14 burning; or

15 (b) Any urban growth area as defined by RCW 36.70A.030, or any  
16 city of the state having a population greater than ten thousand  
17 people if such cities are threatened to exceed state or federal air  
18 quality standards, and alternative disposal practices consistent with  
19 good solid waste management are reasonably available or practices  
20 eliminating production of organic refuse are reasonably available.

21 (2) Notwithstanding any other provision of this section, outdoor  
22 burning may be allowed for the exclusive purpose of managing storm or  
23 flood-related debris. The decision to allow burning shall be made by  
24 the entity with permitting jurisdiction as determined under RCW  
25 70.94.6534 or 70.94.6518. If outdoor burning is allowed in areas  
26 subject to subsection (1)(a) or (b) of this section, a permit shall  
27 be required, and a fee may be collected to cover the expenses of  
28 administering and enforcing the permit. All conditions and  
29 restrictions pursuant to RCW 70.94.6526(1) and 70.94.6512 apply to  
30 outdoor burning allowed under this section.

31 (3)(a) Outdoor burning that is normal, necessary, and customary  
32 to ongoing agricultural activities, that is consistent with  
33 agricultural burning authorized under RCW 70.94.6528 and 70.94.6532,  
34 is allowed within the urban growth area in accordance with RCW  
35 70.94.6528(8)(a).

36 (b) Outdoor burning of cultivated orchard trees shall be allowed  
37 as an ongoing agricultural activity under this section in accordance  
38 with RCW 70.94.6528(8)(b).

1 (4) This section shall not apply to silvicultural burning used to  
2 improve or maintain fire dependent ecosystems for rare plants or  
3 animals within state, federal, and private natural area preserves,  
4 natural resource conservation areas, parks, and other wildlife areas.

5 (5) Notwithstanding any other provisions of this section, outdoor  
6 burning that reduces the risk of a wildfire, or is normal, necessary,  
7 and customary to ongoing silvicultural activities consistent with  
8 silvicultural burning authorized under RCW 70.94.6534(1), is allowed  
9 within the urban growth area in accordance with RCW 70.94.6534.  
10 Before issuing a burn permit within the urban growth area for any  
11 burn that exceeds one hundred tons of material, the department of  
12 natural resources shall consult with department of ecology and  
13 condition the issuance and use of such permits to comply with air  
14 quality standards established by the department of ecology.

15 **Sec. 4.** RCW 70.94.6524 and 2009 c 118 s 301 are each amended to  
16 read as follows:

17 (1) It shall be the responsibility and duty of the department of  
18 natural resources, department of ecology, department of agriculture,  
19 county fire marshals in consultation with fire districts, and local  
20 air pollution control authorities to establish, through regulations,  
21 ordinances, or policy, a limited burning permit program.

22 (2) The permit program shall apply to residential and land  
23 clearing burning in the following areas:

24 (a) In the nonurban areas of any county with an unincorporated  
25 population of greater than fifty thousand; and

26 (b) In any city and urban growth area that is not otherwise  
27 prohibited from burning pursuant to RCW 70.94.6514.

28 (3) The permit program shall apply only to land clearing burning  
29 in the nonurban areas of any county with an unincorporated population  
30 of less than fifty thousand.

31 (4) The permit program may be limited to a general permit by  
32 rule, or by verbal, written, or electronic approval by the permitting  
33 entity.

34 (5) Notwithstanding any other provision of this section, neither  
35 a permit nor the payment of a fee shall be required for outdoor  
36 burning for the purpose of disposal of tumbleweeds blown by wind.  
37 Such burning shall not be conducted during an air pollution episode  
38 or any stage of impaired air quality declared under RCW 70.94.715.



1 This subsection (5) shall only apply within counties with a  
2 population less than two hundred fifty thousand.

3 (6) Burning shall be prohibited in an area when an alternate  
4 technology or method of disposing of the organic refuse is available,  
5 reasonably economical, and less harmful to the environment. It is the  
6 policy of this state to foster and encourage development of alternate  
7 methods or technology for disposing of or reducing the amount of  
8 organic refuse.

9 (7) Incidental agricultural burning must be allowed without  
10 applying for any permit and without the payment of any fee if:

11 (a) The burning is incidental to commercial agricultural  
12 activities;

13 (b) The operator notifies the local fire department within the  
14 area where the burning is to be conducted;

15 (c) The burning does not occur during an air pollution episode or  
16 any stage of impaired air quality declared under RCW 70.94.715; and

17 (d) Only the following items are burned:

18 (i) Orchard prunings;

19 (ii) Organic debris along fence lines or irrigation or drainage  
20 ditches; or

21 (iii) Organic debris blown by wind.

22 (8) As used in this section, "nonurban areas" are unincorporated  
23 areas within a county that are not designated as urban growth areas  
24 under chapter 36.70A RCW.

25 (9) Nothing in this section shall require fire districts to  
26 enforce air quality requirements related to outdoor burning, unless  
27 the fire district enters into an agreement with the department of  
28 ecology, department of natural resources, a local air pollution  
29 control authority, or other appropriate entity to provide such  
30 enforcement.

31 **Sec. 5.** RCW 70.94.6534 and 2010 1st sp.s. c 7 s 128 are each  
32 amended to read as follows:

33 (1) The department of natural resources (~~shall have the~~  
34 ~~responsibility~~) is responsible for issuing and regulating burning  
35 permits required by it relating to the following activities for the  
36 protection of life or property (~~and/or~~) and for the public health,  
37 safety, and welfare:

38 (a) Abating or prevention of a forest fire hazard;

1 (b) (~~Prevention of a fire hazard~~) Reducing the risk of a  
2 wildfire under RCW 70.94.6514(5);

3 (c) Instruction of public officials in methods of forest  
4 firefighting;

5 (d) Any silvicultural operation to improve the forestlands of the  
6 state, including but not limited to forest health and resiliency,  
7 decreasing forest insect or disease susceptibility, maintaining or  
8 restoring native vegetation, or otherwise enhancing resiliency to  
9 fire; and

10 (e) Silvicultural burning used to improve or maintain fire  
11 dependent ecosystems for rare plants or animals within state,  
12 federal, and private natural area preserves, natural resource  
13 conservation areas, parks, and other wildlife areas.

14 (2) The department of natural resources shall not retain such  
15 authority, but it shall be the responsibility of the appropriate fire  
16 protection agency for permitting and regulating outdoor burning on  
17 lands where the department of natural resources does not have fire  
18 protection responsibility, except for the issuance of permits for  
19 reducing the risk of wildfire under RCW 70.94.6514(5). The department  
20 of natural resources may enter into cooperative agreements with local  
21 fire protection agencies to issue permits for reducing wildfire risk  
22 under RCW 70.94.6514(5).

23 (3) Permit fees shall be assessed for wildfire risk reduction and  
24 for silvicultural burning under the jurisdiction of the department of  
25 natural resources and collected by the department of natural  
26 resources as provided for in this section. All fees shall be  
27 deposited in the air pollution control account, created in RCW  
28 70.94.015. The legislature shall appropriate to the department of  
29 natural resources funds from the air pollution control account to  
30 enforce and administer the program under this section and RCW  
31 70.94.6536, 70.94.6538, and 70.94.6540. Fees shall be set by rule by  
32 the department of natural resources at the level necessary to cover  
33 the costs of the program after receiving recommendations on such fees  
34 from the public.

35 **Sec. 6.** RCW 70.94.6536 and 1995 c 143 s 1 are each amended to  
36 read as follows:

37 (1) (a) The department of natural resources shall administer a  
38 program to reduce statewide emissions from silvicultural forest  
39 burning so as to achieve the following minimum objectives:

1       ~~((a))~~ (i) Twenty percent reduction by December 31, 1994,  
2 providing a ceiling for emissions until December 31, 2000; and

3       ~~((b))~~ (ii) Fifty percent reduction by December 31, 2000,  
4 providing a ceiling for emissions thereafter.

5       (b) Reductions shall be calculated from the average annual  
6 emissions level from calendar years 1985 to 1989, using the same  
7 methodology for both reduction and base year calculations.

8       (2) (a) The department of natural resources, within twelve months  
9 after May 15, 1991, shall develop a plan, based upon the existing  
10 smoke management agreement to carry out the programs as described in  
11 this section in the most efficient, cost-effective manner possible.  
12 The plan shall be developed in consultation with the department of  
13 ecology, public and private landowners engaged in silvicultural  
14 forest burning, and representatives of the public.

15       (b) The plan shall recognize the variations in silvicultural  
16 forest burning including, but not limited to, a landowner's  
17 responsibility to abate an extreme fire hazard under chapter 76.04  
18 RCW and other objectives of burning, including abating and preventing  
19 a fire hazard, geographic region, climate, elevation and slope,  
20 proximity to populated areas, ~~((and))~~ diversity of land ownership,  
21 improving forest health and resiliency, decreasing forest insect or  
22 disease susceptibility, maintaining or restoring native vegetation,  
23 or otherwise enhancing resiliency to fire. The plan shall establish  
24 priorities that the department of natural resources shall use to  
25 allocate allowable emissions, including but not limited to, forest  
26 health and resiliency, silvicultural burning used to improve or  
27 maintain fire dependent ecosystems for rare plants or animals within  
28 state, federal, and private natural area preserves, natural resource  
29 conservation areas, parks, and other wildlife areas. The plan shall  
30 also recognize the real costs of the emissions program and recommend  
31 equitable fees to cover the costs of the program.

32       (c) The emission reductions in this section are to apply to all  
33 forestlands including those owned and managed by the United States.  
34 If the United States does not participate in implementing the plan,  
35 the departments of natural resources and ecology shall use all  
36 appropriate and available methods or enforcement powers to ensure  
37 participation.

38       (d) The plan shall include a tracking system designed to measure  
39 the degree of progress toward the emission reductions goals set in  
40 this section. The department of natural resources shall report

1 annually to the department of ecology and the legislature on the  
2 status of the plan, emission reductions and progress toward meeting  
3 the objectives specified in this section, and the goals of this  
4 chapter and chapter 76.04 RCW.

5 (3) If the December 31, 1994, emission reductions targets in this  
6 section are not met, the department of natural resources, in  
7 consultation with the department of ecology, shall use its authority  
8 granted in this chapter and chapter 76.04 RCW to immediately limit  
9 emissions from such burning to the 1994 target levels and limit  
10 silvicultural forest burning in subsequent years to achieve equal  
11 annual incremental reductions so as to achieve the December 31, 2000,  
12 target level. If, as a result of the program established in this  
13 section, the emission reductions are met in 1994, but are not met by  
14 December 31, 2000, the department of natural resources in  
15 consultation with the department of ecology shall immediately limit  
16 silvicultural forest burning to reduce emissions from such burning to  
17 the December 31, 2000, target level in all subsequent years.

18 (4) Emissions from silvicultural burning in eastern Washington  
19 that is conducted for the purpose of restoring forest health or  
20 preventing the additional deterioration of forest health are exempt  
21 from the reduction targets and calculations in this section if the  
22 following conditions are met:

23 (a) The landowner submits a written request to the department  
24 identifying the location of the proposed burning and the nature of  
25 the forest health problem to be corrected. The request shall include  
26 a brief description of alternatives to silvicultural burning and  
27 reasons why the landowner believes the alternatives not to be  
28 appropriate.

29 (b) The department determines that the proposed silvicultural  
30 burning operation is being conducted to restore forest health or  
31 prevent additional deterioration to forest health; meets the  
32 requirements of the state smoke management plan to protect public  
33 health, visibility, and the environment; and will not be conducted  
34 during an air pollution episode or during periods of impaired air  
35 quality in the vicinity of the proposed burn.

36 (c) Upon approval of the request by the department and before  
37 burning, the landowner is encouraged to notify the public in the  
38 vicinity of the burn of the general location and approximate time of  
39 ignition.

1 (5) The department of ecology may conduct a limited, seasonal  
2 ambient air quality monitoring program to measure the effects of  
3 forest health burning conducted under subsection (4) of this section.  
4 The monitoring program may be developed in consultation with the  
5 department of natural resources, private and public forest  
6 landowners, academic experts in forest health issues, and the general  
7 public.

8 **Sec. 7.** RCW 70.94.6538 and 2009 c 118 s 502 are each amended to  
9 read as follows:

10 The department of natural resources, in granting burning permits  
11 for fires for the purposes set forth in RCW 70.94.6534, shall  
12 condition the issuance and use of such permits to comply to the  
13 extent feasible with air quality standards established by the  
14 department of ecology (~~after full consultation with the department~~  
15 ~~of natural resources~~). Such burning shall not cause the state air  
16 quality standards to be exceeded in the ambient air up to two  
17 thousand feet above ground level over critical areas designated by  
18 the department of ecology, otherwise subject to air pollution from  
19 other sources. Air quality standards shall be established and  
20 published by the department of ecology which shall also establish a  
21 procedure for advising the department of natural resources when and  
22 where air contaminant levels exceed or threaten to exceed the ambient  
23 air standards over such critical areas. The air quality shall be  
24 quantitatively measured by the department of ecology or the  
25 appropriate local air pollution control authority at established  
26 monitoring stations over such designated areas. Further, such  
27 permitted burning shall not cause damage to public health or the  
28 environment. All permits issued under this section shall be subject  
29 to all applicable fees, permitting, penalty, and enforcement  
30 provisions of this chapter. The department of natural resources shall  
31 set forth smoke dispersal objectives designed consistent with this  
32 section to minimize any air pollution from such burning and the  
33 procedures necessary to meet those objectives.

34 The department of natural resources shall encourage more intense  
35 utilization in logging and alternative silviculture practices to  
36 reduce the need for burning. The department of natural resources  
37 shall, whenever practical, encourage landowners to develop and use  
38 alternative acceptable disposal methods subject to the following  
39 priorities: (1) Slash production minimization, (2) slash utilization,

1 (3) nonburning disposal, (4) silvicultural burning. Such alternative  
2 methods shall be evaluated as to the relative impact on air, water,  
3 and land pollution, public health, and their financial feasibility.

4 The department of natural resources shall not issue burning  
5 permits and shall revoke previously issued permits at any time in any  
6 area where the department of ecology or local board has declared a  
7 stage of impaired air quality as defined in RCW 70.94.473.

8 NEW SECTION. **Sec. 8.** If specific funding for the purposes of  
9 this act, referencing this act by bill or chapter number, is not  
10 provided by June 30, 2019, in the omnibus appropriations act, this  
11 act is null and void.

Passed by the House April 18, 2019.  
Passed by the Senate April 16, 2019.  
Approved by the Governor May 8, 2019.  
Filed in Office of Secretary of State May 13, 2019.

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## **70A.15.5030**

**2020**

70.94.6516 Outdoor burning-Permits issued by political subdivisions.

[2020 c 20 § 1135; 1991 c 199 § 411; 1973 1st ex.s. c 193 § 10. Formerly RCW 70.94.780.]

Recodified as RCW **70A.15.5030** pursuant to 2020 c 20 § 2010.

## **70A.15.5070**

**2020**

70.94.6524 Limited outdoor burning-Program-Exceptions.

[2020 c 20 § 1139; 2019 c 305 § 4; 2009 c 118 § 301; 1995 c 206 § 1; 1991 c 199 § 401; 1972 ex.s. c 136 § 2. Formerly RCW 70.94.745.]

Recodified as RCW 70A.15.5070 pursuant to 2020 c 20 § 2010.

**2019**

Amended by Second Substitute House Bill 1784, see this appendix

## **70A.15.5080**

**2020**

70.94.6526 Limited outdoor burning-Permits issued by political subdivisions-Types of fires permitted.

2009 c 118 § 302; 1991 c 199 § 412; 1972 ex.s. c 136 § 3. Formerly RCW 70.94.750.]

Recodified as RCW 70A.15.5080 pursuant to 2020 c 20 § 2010.

## **70A.15.5120**

**2020**

70.94.6534 Burning permits for abating or prevention of forest fire hazards, management of ecosystems, instruction or silvicultural operations-Issuance-Fees.

[2020 c 20 § 1143; 2019 c 305 § 5; 2010 1st sp.s. c 7 § 128; 2009 c 118 § 501; 1991 c 199 § 404; 1971 ex.s. c 232 § 2. Formerly RCW 70.94.660.]

Recodified as RCW 70A.15.5120 pursuant to 2020 c 20 § 2010.

**2019**

Amended by Second Substitute House Bill 1784, see this appendix

## **70A.15.5130**

**2019**

Amended by Second Substitute House Bill 1784, see this appendix

## **70A.15.5140**

### **2020**

70.94.6538 Burning permits for abating or prevention of forest fire hazards, management of ecosystems, instruction or silvicultural operations-Conditions for issuance and use of permits-Air quality standards to be met-Alternate methods to lessen forest debris.

[2020 c 20 § 1144; 2019 c 305 § 7; 2009 c 118 § 502; 1991 c 199 § 405; 1971 ex.s. c 232 § 3. Formerly RCW 70.94.670.]

Recodified as RCW 70A.15.5140 pursuant to 2020 c 20 § 2010.

### **2019**

Amended by Second Substitute House Bill 1784, see this appendix

## **70A.15.5150**

### **2020**

70.94.6540 Cooperation between department of natural resources and state, local, or regional air pollution authorities-Withholding of permits.

[2020 c 20 § 1145; 2009 c 118 § 503; 1991 c 199 § 406; 1971 ex.s. c 232 § 5. Formerly RCW 70.94.690.]

Recodified as RCW 70A.15.5150 pursuant to 2020 c 20 § 2010.

## **70A.15.5190**

### **2020**

70.94.6546 Aircraft crash rescue fire training-Training to fight structural fires-Training to fight forest fires-Other firefighter instruction.

[2020 c 20 § 1147; 2009 c 118 § 601.]

Recodified as RCW 70A.15.5180 pursuant to 2020 c 20 § 2010.



## Washington Administrative Code

### 332-24-201

No changes since adoption of 1998 Smoke Management Plan.

### 332-24-205

2019

Amended to comply with legislation allowing burning in Urban Growth Areas:

**WSR 19-17-049**  
**EXPEDITED RULES**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**

[Filed August 16, 2019, 10:52 a.m.]

Title of Rule and Other Identifying Information: WAC 332-24-205 General rules—Minimum requirements for all burning.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Expedited rule making sought to align the department of natural resources' (DNR) rules regarding silvicultural burning in urban growth areas with legislation passed in 2019. Until the 2019 legislative session, burning regulated by the department was prohibited in urban growth areas. The legislature adopted 2SHB 1784, which amends RCW 70.94.6514 to allow "... outdoor burning that reduces the risk of a wildfire, or is normal, necessary, and customary to ongoing silvicultural activities consistent with silvicultural burning authorized under RCW 70.94.6534(1) ...."

Reasons Supporting Proposal: Rule must be amended to be compliant with RCW 70.94.6514.

Statutory Authority for Adoption: RCW 70.94.6542.

Statute Being Implemented: RCW 70.94.6514.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DNR, governmental.

Name of Agency Personnel Responsible for Drafting: Jonathan Guzzo, 1111 Washington Street S.E., Olympia, WA 98504, 360-292-5921; Implementation: Vaughn Cork, 1111 Washington Street S.E., Olympia, WA 98504, 360-902-1318; and Enforcement: George Geissler, 1111 Washington Street S.E., Olympia, WA 98504, 360-902-1318.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus

codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Expedited rule making is appropriate for the proposed revisions, since DNR is aligning WAC with RCW by adopting Washington state statute without material change.

#### NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rochelle Goss, DNR, 1111 Washington Street S.E., P.O. Box 47015, Olympia, WA 98504, phone 360-902-2117, fax 360-902-1789, email Rochelle.goss@dnr.wa.gov, AND RECEIVED BY October 22, 2019.

August 8, 2019  
George Geissler  
Washington State Forester  
Deputy Supervisor  
Wildlife and Forest Health

AMENDATORY SECTION(Amending WSR 98-11-047, filed 5/18/98, effective 6/18/98)

**WAC 332-24-205General rules—Minimum requirements for all burning.**

The following rules apply to all burning regulated by the department:

(1) The department reserves the right to restrict, regulate, refuse, revoke or postpone outdoor fires under RCW 76.04.205 and 76.04.315, and chapter 70.94 RCW due to adverse fire weather or to prevent restriction of visibility, excessive air pollution or a nuisance.

(2) Burning shall not be allowed within nonattainment areas of the state as established by Washington department of ecology for particulate matter ten microns or less or carbon monoxide, except for:

- (a) Fires for improving and maintaining fire dependent ecosystems; or
- (b) Fires for training wildland firefighters; or
- (c) Fires set for a defined research project; or
- (d) Military training exercises; or
- (e) The exclusive purpose of managing storm or flood-related debris; or
- (f) Where exempted by local or state air pollution control agencies.

(3) Burning shall not be allowed inside urban growth areas as designated under growth management plans, or in cities of greater than ten thousand population as follows:

(a) In urban growth areas where reasonable alternatives exist.

(b) In cities with a population of ten thousand or more as established by the office of financial management:

(i) That exceed or threaten to exceed federal or state ambient air quality standards; and

(ii) Where reasonable alternatives to outdoor burning exist, in accordance with WAC 173-425-090.

(c) ~~((After December 31, 2000, burning shall not be allowed in urban growth areas or cities with a population of ten thousand or more.))~~ Outdoor burning that reduces the risk of a wildfire, or is normal, necessary, and customary to ongoing silvicultural activities consistent with silvicultural burning authorized under RCW 70.94.6534(1), is allowed within the urban growth area in accordance with RCW 70.94.6534. Before issuing a burn permit within the urban growth area for any burn that exceeds one hundred tons of material, the department of natural resources shall consult with department of ecology.

(4) No fires shall be ignited when:

(a) The department of ecology has declared an air pollution episode for the geographic area pursuant to chapter 173-435 WAC; or

(b) The department of ecology or a local air pollution control authority has declared impaired air quality for the geographic area in which the burning is to be done.

(5) A person responsible for a burn at the time an episode or impaired air quality is called pursuant to chapter 173-425 WAC, shall extinguish the fire by:

(a) Withholding fuel from the burn;

(b) Allowing the fire to burn down; and

(c) Aggressively putting out the fire until there is no visible smoke, unless otherwise allowed by the department.

(6) Prior to lighting, the person doing the burning must telephone the department, and obtain any special instructions for the day and location of the proposed burn. Those instructions thereupon become part of the conditions of burning.

(7) The fire must not include rubber products, plastic products, asphalt, garbage, dead animals, petroleum products, paints, or any similar prohibited materials that emit dense smoke or create offensive odors when burned, pursuant to RCW 70.94.775(1).

(8) If the fire creates a nuisance from smoke or flying ash, it must be extinguished. For purposes of this section, a nuisance exists when emissions from any

open fire cause physical discomfort or health problems to people residing in the vicinity of the burning or physical damage to property.

(9) Burning within the department's fire protection areas shall not:

(a) Cause visibility to be obscured on public roads and highways by the smoke from such fires; or

(b) Endanger life or property through negligent spread of fire or pollutants.

(10) A person capable of extinguishing the fire must attend the fire at all times and the fire must be completely extinguished before being left unattended.

(11) No fires are to be within fifty feet of structures, or within five hundred feet of forest slash without a written burning permit.

(12) The landowner or landowner's designated representative's written permission must be obtained before kindling a fire on the land of another.

(13) The department reserves the authority to provide waivers, exceptions, and/or to impose additional requirements through the use of written burning permits and the smoke management plan.

**WSR 19-24-027**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**

[Filed November 22, 2019, 4:15 p.m., effective November 22, 2019]

Effective Date of Rule: November 22, 2019.

Purpose: Rule amendment to align the department of natural resources' rules regarding silvicultural burning in urban growth areas with legislation passed in 2019. Until the 2019 legislative session, burning regulated by the department was prohibited in urban growth areas. The legislature adopted 2SHB 1784, which amends RCW 70.94.6514 to allow "...outdoor burning that reduces the risk of a wildfire, or is normal, necessary, and customary to ongoing silvicultural activities consistent with silvicultural burning authorized under RCW 70.94.6531(1)...." Rule is effective immediately upon filing of this CR-103 pursuant to RCW 34.05.380 (3)(a).

Citation of Rules Affected by this Order: Amending WAC 332-24-205.

Statutory Authority for Adoption: RCW 70.94.6542.

Adopted under notice filed as WSR 19-17-049 on August 16, 2019.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 22, 2019.

George Geissler  
Washington State Forester  
Deputy Supervisor  
Wildfire and Forest Health

AMENDATORY SECTION(Amending WSR 98-11-047, filed 5/18/98, effective 6/18/98)

**WAC 332-24-205 General rules—Minimum requirements for all burning.**

The following rules apply to all burning regulated by the department:

(1) The department reserves the right to restrict, regulate, refuse, revoke or postpone outdoor fires under RCW 76.04.205 and 76.04.315, and chapter 70.94 RCW due to adverse fire weather or to prevent restriction of visibility, excessive air pollution or a nuisance.

(2) Burning shall not be allowed within nonattainment areas of the state as established by Washington department of ecology for particulate matter ten microns or less or carbon monoxide, except for:

- (a) Fires for improving and maintaining fire dependent ecosystems; or
- (b) Fires for training wildland firefighters; or
- (c) Fires set for a defined research project; or
- (d) Military training exercises; or
- (e) The exclusive purpose of managing storm or flood-related debris; or
- (f) Where exempted by local or state air pollution control agencies.

(3) Burning shall not be allowed inside urban growth areas as designated under growth management plans, or in cities of greater than ten thousand population as follows:

(a) In urban growth areas where reasonable alternatives exist.

(b) In cities with a population of ten thousand or more as established by the office of financial management:

(i) That exceed or threaten to exceed federal or state ambient air quality standards; and

(ii) Where reasonable alternatives to outdoor burning exist, in accordance with WAC 173-425-090.

(c) (~~After December 31, 2000, burning shall not be allowed in urban growth areas or cities with a population of ten thousand or more.~~) Outdoor burning that reduces the risk of a wildfire, or is normal, necessary, and customary to ongoing silvicultural activities consistent with silvicultural burning authorized under

RCW 70.94.6534(1), is allowed within the urban growth area in accordance with RCW 70.94.6534. Before issuing a burn permit within the urban growth area for any burn that exceeds one hundred tons of material, the department of natural resources shall consult with department of ecology.

(4) No fires shall be ignited when:

(a) The department of ecology has declared an air pollution episode for the geographic area pursuant to chapter 173-435 WAC; or

(b) The department of ecology or a local air pollution control authority has declared impaired air quality for the geographic area in which the burning is to be done.

(5) A person responsible for a burn at the time an episode or impaired air quality is called pursuant to chapter 173-425 WAC, shall extinguish the fire by:

(a) Withholding fuel from the burn;

(b) Allowing the fire to burn down; and

(c) Aggressively putting out the fire until there is no visible smoke, unless otherwise allowed by the department.

(6) Prior to lighting, the person doing the burning must telephone the department, and obtain any special instructions for the day and location of the proposed burn. Those instructions thereupon become part of the conditions of burning.

(7) The fire must not include rubber products, plastic products, asphalt, garbage, dead animals, petroleum products, paints, or any similar prohibited materials that emit dense smoke or create offensive odors when burned, pursuant to RCW 70.94.775(1).

(8) If the fire creates a nuisance from smoke or flying ash, it must be extinguished. For purposes of this section, a nuisance exists when emissions from any open fire cause physical discomfort or health problems to people residing in the vicinity of the burning or physical damage to property.

(9) Burning within the department's fire protection areas shall not:

(a) Cause visibility to be obscured on public roads and highways by the smoke from such fires; or

(b) Endanger life or property through negligent spread of fire or pollutants.

(10) A person capable of extinguishing the fire must attend the fire at all times and the fire must be completely extinguished before being left unattended.

(11) No fires are to be within fifty feet of structures, or within five hundred feet of forest slash without a written burning permit.

(12) The landowner or landowner's designated representative's written permission must be obtained before kindling a fire on the land of another.

(13) The department reserves the authority to provide waivers, exceptions, and/or to impose additional requirements through the use of written burning permits and the smoke management plan.

### **332-24-211**

No changes since adoption of 1998 Smoke Management Plan.

### **332-24-217**

**2021**

Preproposal Statement of Inquiry regarding adopting Civil Enforcement Rules in response to legislative requirements in Substitute House Bill 1423

**WSR 21-13-018**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**

[Filed June 8, 2021, 10:05 a.m.]

Subject of Possible Rule Making: Revising WAC 332-24-217 to conform to SHB 1423, which grants department of natural resources (DNR) the authority to levy civil penalties for violations of RCW 76.04.205, and requires rule making to define a framework for resolving conflicts and the method by which penalties will be calculated.

Statutes Authorizing the Agency to Adopt Rules on this Subject:  
RCW 76.04.015, 34.05.328.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The legislature explicitly required rule making in HB [SHB] 1423, which amends RCW 76.04.205 and 70A.15.3160. Rule making, per legislative direction will result in a framework for resolving conflicts related to violations of RCW 76.04.205, and will define how fines are calculated when a violation occurs.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: DNR is working closely with the United States Environmental Protection Agency (EPA) and Washington state department of ecology (ecology) on the inclusion of the Silvicultural Smoke Management Plan in the State Implementation Plan of the Federal Clean Air Act, and will consult EPA throughout the rule-making process. However, ecology, local clean air agencies (LCAA), and tribes are responsible for the regulation of smoke, air quality, and burn permitting for all burning in Washington, other than silvicultural. Silvicultural burning regulation is the responsibility of DNR. Coordination with ecology, LCAAs, and tribes is essential to the protection of Washington airsheds and to this rule making.

Process for Developing New Rule: Significant legislative rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jonathan Guzzo, 1111 Washington Street S.E., Olympia, WA 98504, phone 360-252-5921, fax 360-902-1757, email [jonathan.guzzo@dnr.wa.gov](mailto:jonathan.guzzo@dnr.wa.gov), website [dnr.wa.gov](http://dnr.wa.gov).

May 27, 2021  
George Geissler  
Deputy Supervisor for  
Wildfire and Forest Health

**332-24-221**

No changes since 2011.