

WAC 173-425-060 Outdoor burning permit program/requirements.

(1) Permit program.

(a) Ecology or local air authorities may consult with fire protection authorities, conservation districts, or counties to determine if any of these agencies are capable and willing to serve as the permitting agency and/or enforcing agency for particular types of burning in an area of the state. Ecology or local air authorities may enter into agreements with any capable agencies to identify the permitting agencies and enforcing agencies for each type of burning and determine the type of permit appropriate for each area where a permit is required. (RCW 70.94.654)

(b) Permitting agencies may use, as appropriate, a verbal, electronic, written, or general permit established by rule, for any type of burning that requires a permit: Provided, That a written permit should be used, where feasible, for land clearing burning, storm or flood debris burning in areas where residential burning and land clearing burning are prohibited under WAC 173-425-040 (1), (2), or (3), and other outdoor burning (except any other outdoor burning necessary to protect public health and safety). (RCW 70.94.745(4))

(c) The rule for a general permit must establish periods of time when any burning under the permit must occur. General permits must also include all appropriate conditions for burning as stated in subsection (4) of this section.

(2) **Types of burning that require a permit.** Except as otherwise stated, a permit is required for the following types of outdoor burning in all areas of the state under the jurisdiction of this chapter:

(a) Residential burning (except in the nonurban areas of any county with an unincorporated population of less than fifty thousand; (RCW 70.94.745(2))

(b) Land clearing burning; (RCW 70.94.745(2))

(c) Storm or flood debris burning; (RCW 70.94.743 (1)(c))

(d) Tumbleweed burning (except in counties with a population of less than two hundred fifty thousand); (RCW 70.94.745(5))

(e) Weed abatement fires; (RCW 70.94.650 (1)(a))

(f) Firefighting instruction fires for training to fight structural fires in urban growth areas and cities with a population over ten thousand, and all other firefighting instruction fires, except firefighting instruction fires for training to fight structural fires as provided in RCW 52.12.150, aircraft crash rescue fires as provided in RCW 70.94.650(5), and forest fires; (RCW 70.94.650 (1)(b))

(g) Rare and endangered plant regeneration fires; (RCW 70.94.651(1))

(h) Indian ceremonial fires (except on lands within the exterior boundaries of Indian reservations unless provided for by intergovernmental agreement); (RCW 70.94.651(2))

(i) Recreational fires with a total fuel area that is greater than three feet in diameter and/or two feet in height (except in the nonurban areas of counties with an unincorporated population of less than fifty thousand; and (RCW 70.94.765)

(j) Other outdoor burning (if specifically authorized by the local air authority or ecology). (RCW 70.94.765)

(3) **Fees.** Permitting agencies may charge a fee for any permit issued under the authority of this chapter: Provided, That a fee must be charged for all permits issued for weed abatement fires and firefighting instruction fires. All fees must be set by rule and must not exceed the level necessary to recover the costs of administering and enforcing the permit program. (RCW 70.94.650(2) and 70.94.780)

(4) **Permit decisions.** Permitting agencies must approve with conditions, or deny outdoor burning permits as needed to achieve compliance with this chapter. All permits must include conditions to satisfy the requirements in WAC 173-425-050, and they may require other conditions, such as restricting the time period for burning, restricting permissible hours of burning, imposing requirements for good combustion practice, and restricting burning to specified weather conditions. Permitting agencies may also include conditions to comply with other laws pertaining to outdoor burning. (RCW 70.94.745, 70.94.750, and 70.94.780)

(5) **Establishment of a general permit and requirements for residential burning.**

(a) A general permit for residential burning is hereby adopted for use in any area where ecology (or a local air authority that has adopted this general permit by reference) and any designated enforcing agencies have agreed that a general permit is appropriate for residential burning, and have notified the public where the permit applies. All burning under this permit must comply with the conditions in (c) of this subsection, and it must be restricted to the first and second weekends (Saturday and Sunday) in April and the third and fourth weekends in October, unless alternative days are substituted by the enforcing agency and adequate notice of the substitution is provided to the public. Alternative days may only be substituted if conditions on the prescribed days are unsuitable due to such things as poor air quality, high fire danger, unfavorable meteorology, likely interference with a major community event, or difficulties for enforcement. (RCW 70.94.745(4))

(b) Local air authorities may also adopt a general permit for residential burning that prescribes a different set of days, not to exceed eight days per year, when any burning under the permit must occur: Provided, That the public must be given adequate notice regarding where and when the permit will apply. (RCW 70.94.745(4))

(c) The following conditions apply to all residential burning allowed without a permit under WAC 173-425-060 (2)(a) or allowed under a general, verbal, or electronic permit:

(i) The person responsible for the fire must contact the permitting agency and/or any other designated source for information on the burning conditions for each day.

(ii) A fire may not be ignited, and must be extinguished, if an air pollution episode, impaired air quality condition, or fire danger burn ban that applies to the burning, is declared for the area.

(iii) The fire must not include garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper (other than what is necessary to start a fire), cardboard, treated wood, construction/demolition debris, metal, or any substance (other than natural vegetation) that normally releases toxic emissions, dense smoke, or obnoxious odors when burned.

(iv) The fire must not include materials hauled from another property.

(v) If any emission from the fire is detrimental to the health, safety, or welfare of any person, if it causes damage to property or business, or if it causes a nuisance, the fire must be extinguished immediately.

(vi) A person capable of extinguishing the fire must attend it at all times, and the fire must be extinguished before leaving it.

(vii) No fires are to be within fifty feet of structures.

(viii) Permission from a landowner, or owner's designated representative, must be obtained before starting an outdoor fire.

(ix) Any burn pile must not be larger than four feet by four feet by three feet.

(x) Only one pile at a time may be burned, and each pile must be extinguished before lighting another.

(xi) If an outdoor container is used for burning, it must be constructed of concrete or masonry with a completely enclosed combustion chamber and equipped with a permanently attached spark arrester constructed of iron, heavy wire mesh, or other noncombustible material with openings not larger than one-half inch.

(xii) No fire is permitted within five hundred feet of forest slash.

Persons not able to meet these requirements or the requirements in WAC 173-425-050 must apply for and receive a written permit before burning. Failure to comply with all requirements of this subsection voids any applicable permit, and the person responsible for burning may be subject to enforcement action under subsection (6) of this section.

(6) **Field response and enforcement.** Any agency that issues permits, or adopts a general permit for any type of burning in an area, is responsible for field response to outdoor burning complaints and enforcement of all permit conditions and requirements of this chapter related to that type of burning in the area, unless another agency has agreed under WAC 173-425-060 (1)(a) to be responsible for certain field response or enforcement activities. Except for enforcing WAC 173-425-050 (3)(a)(iii), local air authorities and ecology may also perform these activities. Local air authorities or ecology will also be responsible for enforcing any requirements that apply to burning that is prohibited or exempt from permits in areas under their jurisdiction, unless another agency agrees to be responsible.

Permitting agencies and enforcing agencies may require that corrective action be taken, and may assess penalties to the extent allowed under their general and specific authorities if they discover noncompliance with this chapter. A fire protection authority called to respond to, control, or extinguish an illegal or out-of-control fire may charge, and recover from the person responsible for the fire, the costs of its response and control action.

[Statutory Authority: RCW 70.94.700, [70.94.]755 and Governor's Executive Order 97-02. WSR 00-07-066 (Order 97-39), § 173-425-060, filed 3/13/00, effective 4/13/00. Statutory Authority: Chapter 70.94 RCW. WSR 92-24-077 (Order 91-57), § 173-425-060, filed 12/1/92, effective 1/1/93.]