

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 1302**

Chapter 197, Laws of 2005

59th Legislature  
2005 Regular Session

BURN BANS

EFFECTIVE DATE: 7/24/05

Passed by the House March 10, 2005  
Yeas 64 Nays 32

FRANK CHOPP

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**Speaker of the House of Representatives**

Passed by the Senate April 15, 2005  
Yeas 35 Nays 7

BRAD OWEN

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**President of the Senate**

Approved April 26, 2005.

CHRISTINE GREGOIRE

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**Governor of the State of Washington**

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1302** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

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**Chief Clerk**

FILED

April 26, 2005 - 2:30 p.m.

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE HOUSE BILL 1302**

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Passed Legislature - 2005 Regular Session

**State of Washington                      59th Legislature                      2005 Regular Session**

**By** House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Kagi, Jarrett and B. Sullivan)

READ FIRST TIME 02/10/05.

1            AN ACT Relating to burn ban triggers; and amending RCW 70.94.473  
2 and 70.94.030.

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

4            **Sec. 1.** RCW 70.94.473 and 1998 c 342 s 8 are each amended to read  
5 as follows:

6            (1) Any person in a residence or commercial establishment which has  
7 an adequate source of heat without burning wood shall:

8            (a) Not burn wood in any solid fuel burning device whenever the  
9 department has determined under RCW 70.94.715 that any air pollution  
10 episode exists in that area;

11            (b) Not burn wood in any solid fuel burning device except those  
12 which are either Oregon department of environmental quality phase II or  
13 United States environmental protection agency certified or certified by  
14 the department under RCW 70.94.457(1) or a pellet stove either  
15 certified or issued an exemption by the United States environmental  
16 protection agency in accordance with Title 40, Part 60 of the code of  
17 federal regulations, in the geographical area and for the period of  
18 time that a first stage of impaired air quality has been determined, by

1 the department or any authority, for that area. A first stage of  
2 impaired air quality is reached when:

3 (i) Fine particulates ((ten microns and smaller in diameter)) are  
4 at an ambient level of ((sixty)) thirty-five micrograms per cubic meter  
5 measured on a twenty-four hour average ((or when carbon monoxide is at  
6 an ambient level of eight parts of contaminant per million parts of air  
7 by volume measured on an eight hour average)); and

8 (ii) Forecasted meteorological conditions are not expected to allow  
9 levels of fine particulates to decline below thirty-five micrograms per  
10 cubic meter for a period of forty-eight hours or more from the time  
11 that the fine particulates are measured at the trigger level; and

12 (c) Not burn wood in any solid fuel burning device in a  
13 geographical area and for the period of time that a second stage of  
14 impaired air quality has been determined by the department or any  
15 authority, for that area. A second stage of impaired air quality is  
16 reached when ((particulates ten microns and smaller in diameter are at  
17 an ambient level of one hundred five micrograms per cubic meter  
18 measured on a twenty four hour average)):

19 (i) A first stage of impaired air quality has been in force and not  
20 been sufficient to reduce the increasing fine particle pollution trend;

21 (ii) Fine particulates are at an ambient level of sixty micrograms  
22 per cubic meter measured on a twenty-four hour average; and

23 (iii) Forecasted meteorological conditions are not expected to  
24 allow levels of fine particulates to decline below sixty micrograms per  
25 cubic meter for a period of forty-eight hours or more from the time  
26 that the fine particulates are measured at the trigger level.

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

32 **Sec. 2.** RCW 70.94.030 and 1993 c 252 s 2 are each amended to read  
33 as follows:

34 ((Unless a different meaning is plainly required by the context,  
35 the following words and phrases as hereinafter used in this chapter  
36 shall have the following meanings:)) The definitions in this section

1 apply throughout this chapter unless the context clearly requires  
2 otherwise.

3 (1) "Air contaminant" means dust, fumes, mist, smoke, other  
4 particulate matter, vapor, gas, odorous substance, or any combination  
5 thereof.

6 (2) "Air pollution" is presence in the outdoor atmosphere of one or  
7 more air contaminants in sufficient quantities and of such  
8 characteristics and duration as is, or is likely to be, injurious to  
9 human health, plant or animal life, or property, or which unreasonably  
10 interfere with enjoyment of life and property. For the purpose of this  
11 chapter, air pollution shall not include air contaminants emitted in  
12 compliance with chapter 17.21 RCW.

13 (3) "Air quality standard" means an established concentration,  
14 exposure time, and frequency of occurrence of an air contaminant or  
15 multiple contaminants in the ambient air which shall not be exceeded.

16 (4) "Ambient air" means the surrounding outside air.

17 (5) "Authority" means any air pollution control agency whose  
18 jurisdictional boundaries are coextensive with the boundaries of one or  
19 more counties.

20 (6) "Best available control technology" (BACT) means an emission  
21 limitation based on the maximum degree of reduction for each air  
22 pollutant subject to regulation under this chapter emitted from or that  
23 results from any new or modified stationary source, that the permitting  
24 authority, on a case-by-case basis, taking into account energy,  
25 environmental, and economic impacts and other costs, determines is  
26 achievable for such a source or modification through application of  
27 production processes and available methods, systems, and techniques,  
28 including fuel cleaning, clean fuels, or treatment or innovative fuel  
29 combustion techniques for control of each such a pollutant. In no  
30 event shall application of "best available control technology" result  
31 in emissions of any pollutants that will exceed the emissions allowed  
32 by any applicable standard under 40 C.F.R. Part 60 and Part 61, as they  
33 exist on July 25, 1993, or their later enactments as adopted by  
34 reference by the director by rule. Emissions from any source utilizing  
35 clean fuels, or any other means, to comply with this subsection shall  
36 not be allowed to increase above levels that would have been required  
37 under the definition of BACT as it existed prior to enactment of the  
38 (~~{federal}~~) federal clean air act amendments of 1990.

1 (7) "Best available retrofit technology" (BART) means an emission  
2 limitation based on the degree of reduction achievable through the  
3 application of the best system of continuous emission reduction for  
4 each pollutant that is emitted by an existing stationary facility. The  
5 emission limitation must be established, on a case-by-case basis,  
6 taking into consideration the technology available, the costs of  
7 compliance, the energy and nonair quality environmental impacts of  
8 compliance, any pollution control equipment in use or in existence at  
9 the source, the remaining useful life of the source, and the degree of  
10 improvement in visibility that might reasonably be anticipated to  
11 result from the use of the technology.

12 (8) "Board" means the board of directors of an authority.

13 (9) "Control officer" means the air pollution control officer of  
14 any authority.

15 (10) "Department" or "ecology" means the department of ecology.

16 (11) "Emission" means a release of air contaminants into the  
17 ambient air.

18 (12) "Emission standard" and "emission limitation" mean a  
19 requirement established under the federal clean air act or this chapter  
20 that limits the quantity, rate, or concentration of emissions of air  
21 contaminants on a continuous basis, including any requirement relating  
22 to the operation or maintenance of a source to assure continuous  
23 emission reduction, and any design, equipment, work practice, or  
24 operational standard adopted under the federal clean air act or this  
25 chapter.

26 (13) "Fine particulate" means particulates with a diameter of two  
27 and one-half microns and smaller.

28 (14) "Lowest achievable emission rate" (LAER) means for any source  
29 that rate of emissions that reflects:

30 (a) The most stringent emission limitation that is contained in the  
31 implementation plan of any state for such class or category of source,  
32 unless the owner or operator of the proposed source demonstrates that  
33 such limitations are not achievable; or

34 (b) The most stringent emission limitation that is achieved in  
35 practice by such class or category of source, whichever is more  
36 stringent.

37 In no event shall the application of this term permit a proposed

1 new or modified source to emit any pollutant in excess of the amount  
2 allowable under applicable new source performance standards.

3 ~~((+14))~~ (15) "Modification" means any physical change in, or  
4 change in the method of operation of, a stationary source that  
5 increases the amount of any air contaminant emitted by such source or  
6 that results in the emission of any air contaminant not previously  
7 emitted. The term modification shall be construed consistent with the  
8 definition of modification in Section 7411, Title 42, United States  
9 Code, and with rules implementing that section.

10 ~~((+15))~~ (16) "Multicounty authority" means an authority which  
11 consists of two or more counties.

12 ~~((+16))~~ (17) "New source" means (a) the construction or  
13 modification of a stationary source that increases the amount of any  
14 air contaminant emitted by such source or that results in the emission  
15 of any air contaminant not previously emitted, and (b) any other  
16 project that constitutes a new source under the federal clean air act.

17 ~~((+17))~~ (18) "Permit program source" means a source required to  
18 apply for or to maintain an operating permit under RCW 70.94.161.

19 ~~((+18))~~ (19) "Person" means an individual, firm, public or private  
20 corporation, association, partnership, political subdivision of the  
21 state, municipality, or governmental agency.

22 ~~((+19))~~ (20) "Reasonably available control technology" (RACT)  
23 means the lowest emission limit that a particular source or source  
24 category is capable of meeting by the application of control technology  
25 that is reasonably available considering technological and economic  
26 feasibility. RACT is determined on a case-by-case basis for an  
27 individual source or source category taking into account the impact of  
28 the source upon air quality, the availability of additional controls,  
29 the emission reduction to be achieved by additional controls, the  
30 impact of additional controls on air quality, and the capital and  
31 operating costs of the additional controls. RACT requirements for a  
32 source or source category shall be adopted only after notice and  
33 opportunity for comment are afforded.

34 ~~((+20))~~ (21) "Silvicultural burning" means burning of wood fiber  
35 on forest land consistent with the provisions of RCW 70.94.660.

36 ~~((+21))~~ (22) "Source" means all of the emissions units including  
37 quantifiable fugitive emissions, that are located on one or more  
38 contiguous or adjacent properties, and are under the control of the

1 same person, or persons under common control, whose activities are  
2 ancillary to the production of a single product or functionally related  
3 group of products.

4 ~~((+22+))~~ (23) "Stationary source" means any building, structure,  
5 facility, or installation that emits or may emit any air contaminant.

6 (24) "Trigger level" means the ambient level of fine particulates,  
7 measured in micrograms per cubic meter, that must be detected prior to  
8 initiating a first or second stage of impaired air quality under RCW  
9 70.94.473.

Passed by the House March 10, 2005.

Passed by the Senate April 15, 2005.

Approved by the Governor April 26, 2005.

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