

**RCW 70A.15.5090 Permits—Issuance—Conditioning of permits—Fees—Agricultural burning practices and research task force—Development of public education materials—Agricultural activities.**

(1) Any person who proposes to set fires in the course of agricultural activities shall obtain a permit from an air pollution control authority, the department of ecology, or a local entity delegated permitting authority under RCW 70A.15.5100. General permit criteria of statewide applicability shall be established by the department, by rule, after consultation with the various air pollution control authorities. For the purposes of this section, agricultural burning includes the combustion of natural vegetation from agricultural activities in portable flame cap kilns, provided that the biomass does not contain any prohibited materials as defined in RCW 70A.15.5010(1).

(a) Permits shall be issued under this section based on seasonal operations or by individual operations, or both.

(b) Incidental agricultural burning consistent with provisions established in RCW 70A.15.5070 is allowed without applying for any permit and without the payment of any fee.

(2) The department of ecology, local air authorities, or a local entity with delegated permit authority shall:

(a) Condition all permits to ensure that the public interest in air, water, and land pollution and safety to life and property is fully considered;

(b) Condition all burning permits to minimize air pollution insofar as practical;

(c) Act upon, within seven days from the date an application is filed under this section, an application for a permit to set fires in the course of agricultural burning for controlling diseases, insects, weed abatement, or development of physiological conditions conducive to increased crop yield;

(d) Provide convenient methods for issuance and oversight of agricultural burning permits; and

(e) Work, through agreement, with counties and cities to provide convenient methods for granting permission for agricultural burning, including telephone, facsimile transmission, issuance from local city or county offices, or other methods.

(3) A local air authority administering the permit program under subsection (2) of this section shall not limit the number of days of allowable agricultural burning, but may consider the time of year, meteorological conditions, and other criteria specified in rules adopted by the department to implement subsection (2) of this section.

(4) In addition to following any other requirements established by the department to protect air quality pursuant to other laws, applicants for permits must show that the setting of fires as requested is the most reasonable procedure to follow in safeguarding life or property under all circumstances or is otherwise reasonably necessary to successfully carry out the enterprise in which the applicant is engaged, or both. Nothing in this section relieves the applicant from obtaining permits, licenses, or other approvals required by any other law.

(5) The department of ecology, the appropriate local air authority, or a local entity with delegated permitting authority pursuant to RCW 70A.15.5100 at the time the permit is issued shall assess and collect permit fees for burning under this section. All fees collected shall be deposited in the air pollution control account created in RCW 70A.15.1010, except for that portion of the fee

necessary to cover local costs of administering a permit issued under this section. Fees shall be set by rule by the permitting agency at the level determined by the task force created by subsection (6) of this section, but fees for field burning shall not exceed \$3.75 per acre to be burned or, in the case of pile burning, shall not exceed \$1.00 per ton of material burned.

(6) An agricultural burning practices and research task force shall be established under the direction of the department. The task force shall be composed of a representative from the department who shall serve as chair; one representative of eastern Washington local air authorities; three representatives of the agricultural community from different agricultural pursuits; one representative of the department of agriculture; two representatives from universities or colleges knowledgeable in agricultural issues; one representative of the public health or medical community; and one representative of the conservation districts. The task force shall:

(a) Identify best management practices for reducing air contaminant emissions from agricultural activities and provide such information to the department and local air authorities;

(b) Determine the level of fees to be assessed by the permitting agency pursuant to subsection (5) of this section, based upon the level necessary to cover the costs of administering and enforcing the permit programs, to provide funds for research into alternative methods to reduce emissions from such burning, and to the extent possible be consistent with fees charged for such burning permits in neighboring states. The fee level shall provide, to the extent possible, for lesser fees for permittees who use best management practices to minimize air contaminant emissions;

(c) Identify research needs related to minimizing emissions from agricultural burning and alternatives to such burning; and

(d) Make recommendations to the department on priorities for spending funds provided through this chapter for research into alternative methods to reduce emissions from agricultural burning.

(7) Conservation districts and the Washington State University agricultural extension program in conjunction with the department shall develop public education material for the agricultural community identifying the health and environmental effects of agricultural outdoor burning and providing technical assistance in alternatives to agricultural outdoor burning.

(8) (a) Outdoor burning that is normal, necessary, and customary to ongoing agricultural activities, that is consistent with agricultural burning authorized under this section and RCW 70A.15.5110, is allowed within the urban growth area as described in RCW 70A.15.5020 if the burning is not conducted during air quality episodes, or where a determination of impaired air quality has been made as provided in RCW 70A.15.3580, and the agricultural activities preceded the designation as an urban growth area.

(b) Outdoor burning of cultivated orchard trees, whether or not agricultural crops will be replanted on the land, shall be allowed as an ongoing agricultural activity under this section if a local horticultural pest and disease board formed under chapter 15.09 RCW, an extension office agent with Washington State University that has horticultural experience, or an entomologist employed by the department of agriculture, has determined in writing that burning is an appropriate method to prevent or control the spread of horticultural pests or diseases. [2024 c 280 s 3; 2020 c 20 s 1140; 2010 c 70 s 1; 2009 c 118 s 401; 1998 c 43 s 1. Prior: 1995 c 362 s 1;

1995 c 58 s 1; 1994 c 28 s 2; 1993 c 353 s 1; 1991 c 199 s 408; 1971 ex.s. c 232 s 1. Formerly RCW 70.94.6528, 70.94.650.]

**Findings—2024 c 280:** See note following RCW 70A.15.1030.

**Purpose—2009 c 118:** See note following RCW 70A.15.5000.

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