

CERTIFICATION OF ENROLLMENT

SENATE BILL 5767

61st Legislature
2009 Regular Session

Passed by the Senate March 3, 2009
YEAS 48 NAYS 0

President of the Senate

Passed by the House April 7, 2009
YEAS 98 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5767** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5767

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Senators Rockefeller, Pridemore, Regala, and Shin

Read first time 01/30/09. Referred to Committee on Environment,
Water & Energy.

1 AN ACT Relating to nonsubstantive changes clarifying outdoor
2 burning provisions of the Washington clean air act; amending RCW
3 70.94.775, 70.94.743, 70.94.755, 70.94.760, 70.94.765, 70.94.745,
4 70.94.750, 70.94.650, 70.94.654, 70.94.656, 70.94.660, 70.94.670,
5 70.94.690, 70.94.700, and 70.94.651; adding new sections to chapter
6 70.94 RCW; creating new sections; and recodifying RCW 70.94.775,
7 70.94.743, 70.94.780, 70.94.755, 70.94.760, 70.94.765, 70.94.745,
8 70.94.750, 70.94.650, 70.94.654, 70.94.656, 70.94.660, 70.94.665,
9 70.94.670, 70.94.690, 70.94.700, and 70.94.651.

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

11 NEW SECTION. **Sec. 1.** The purpose of this act is to make
12 technical, nonsubstantive changes to outdoor burning provisions of the
13 Washington clean air act, chapter 70.94 RCW, to improve clarity. No
14 provision of this act may be construed as a substantive change to the
15 Washington clean air act.

PART 1

OUTDOOR BURNING--GENERAL PROVISIONS

1 NEW SECTION. **Sec. 101.** A new section is added to chapter 70.94
2 RCW under the subchapter heading "outdoor burning" to read as follows:

3 As used in this subchapter, "outdoor burning" means the combustion
4 of material of any type in an open fire or in an outdoor container
5 without providing for the control of combustion or the control of
6 emissions from the combustion.

7 **Sec. 102.** RCW 70.94.775 and 1995 c 362 s 2 are each amended to
8 read as follows:

9 Except as provided in (~~(RCW 70.94.650(5))~~) section 601 of this act,
10 no person shall cause or allow any outdoor fire:

11 (1) Containing garbage, dead animals, asphalt, petroleum products,
12 paints, rubber products, plastics, or any substance other than natural
13 vegetation that normally emits dense smoke or obnoxious odors.
14 Agricultural heating devices that otherwise meet the requirements of
15 this chapter shall not be considered outdoor fires under this section;

16 (2) During a forecast, alert, warning or emergency condition as
17 defined in RCW 70.94.715 or impaired air quality condition as defined
18 in RCW 70.94.473.

19 **Sec. 103.** RCW 70.94.743 and 2004 c 213 s 1 are each amended to
20 read as follows:

21 (1) Consistent with the policy of the state to reduce outdoor
22 burning to the greatest extent practical(~~(+~~
23 ~~(a))~~), outdoor burning shall not be allowed in:

24 (a) Any area of the state where federal or state ambient air
25 quality standards are exceeded for pollutants emitted by outdoor
26 burning(~~(-~~

27 ~~(b) Outdoor burning shall not be allowed in); or~~

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

34 (~~In no event shall such burning be allowed after December 31, 2000,~~
35 ~~except that within the urban growth areas for cities having a~~
36 ~~population of less than five thousand people, that are neither within~~

1 ~~nor contiguous with any nonattainment or maintenance area designated~~
2 ~~under the federal clean air act, in no event shall such burning be~~
3 ~~allowed after December 31, 2006.~~

4 ~~(e))~~ (2) Notwithstanding any other provision of this section,
5 outdoor burning may be allowed for the exclusive purpose of managing
6 storm or flood-related debris. The decision to allow burning shall be
7 made by the entity with permitting jurisdiction as determined under RCW
8 70.94.660 or 70.94.755 (as recodified by this act). If outdoor burning
9 is allowed in areas subject to subsection (1)(a) or (b) of this
10 ~~(subsection)~~ section, a permit shall be required, and a fee may be
11 collected to cover the expenses of administering and enforcing the
12 permit. All conditions and restrictions pursuant to RCW 70.94.750(1)
13 and 70.94.775 (as recodified by this act) apply to outdoor burning
14 allowed under this section.

15 ~~((d)(i))~~ (3)(a) Outdoor burning that is normal, necessary, and
16 customary to ongoing agricultural activities, that is consistent with
17 agricultural burning authorized under RCW 70.94.650 and 70.94.656 (as
18 recodified by this act), is allowed within the urban growth area ~~((as~~
19 ~~defined in (b) of this subsection if the burning is not conducted~~
20 ~~during air quality episodes, or where a determination of impaired air~~
21 ~~quality has been made as provided in RCW 70.94.473, and the~~
22 ~~agricultural activities preceded the designation as an urban growth~~
23 ~~area))~~ in accordance with RCW 70.94.650(8)(a) (as recodified by this
24 act).

25 ~~((ii))~~ (b) Outdoor burning of cultivated orchard trees ~~((, whether~~
26 ~~or not agricultural crops will be replanted on the land,))~~ shall be
27 allowed as an ongoing agricultural activity under this section ~~((if a~~
28 ~~local horticultural pest and disease board formed under chapter 15.09~~
29 ~~RCW, an extension office agent with Washington State University that~~
30 ~~has horticultural experience, or an entomologist employed by the~~
31 ~~department of agriculture, has determined in writing that burning is an~~
32 ~~appropriate method to prevent or control the spread of horticultural~~
33 ~~pests or diseases))~~ in accordance with RCW 70.94.650(8)(b) (as
34 recodified by this act).

35 ~~((2) "Outdoor burning" means the combustion of material of any~~
36 ~~type in an open fire or in an outdoor container without providing for~~
37 ~~the control of combustion or the control of emissions from the~~
38 ~~combustion.~~

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

5 **PART 2**
6 **OUTDOOR BURNING--PROGRAM**

7 **Sec. 201.** RCW 70.94.755 and 1997 c 225 s 2 are each amended to
8 read as follows:

9 Each activated air pollution control authority, and the department
10 of ecology in those areas outside the jurisdictional boundaries of an
11 activated air pollution control authority, shall establish, through
12 regulations, ordinances, or policy, a program implementing the limited
13 burning policy authorized by RCW 70.94.743 through 70.94.765 (as
14 recodified by this act).

15 **Sec. 202.** RCW 70.94.760 and 1986 c 100 s 55 are each amended to
16 read as follows:

17 Nothing contained in RCW ((~~70.94.740~~)) 70.94.743 through 70.94.765
18 (as recodified by this act) is intended to alter or change the
19 provisions of RCW 70.94.660 (as recodified by this act), 70.94.710
20 through 70.94.730, and 76.04.205.

21 **Sec. 203.** RCW 70.94.765 and 1972 ex.s. c 136 s 6 are each amended
22 to read as follows:

23 Nothing in RCW ((~~70.94.740~~)) 70.94.743 through 70.94.765 (as
24 recodified by this act) shall be construed as prohibiting a local air
25 pollution control authority or the department of ecology in those areas
26 outside the jurisdictional boundaries of an activated pollution control
27 authority from allowing the burning of outdoor fires.

28 **PART 3**
29 **RESIDENTIAL AND LAND CLEARING BURNING**

30 **Sec. 301.** RCW 70.94.745 and 1995 c 206 s 1 are each amended to
31 read as follows:

32 (1) It shall be the responsibility and duty of the department of

1 natural resources, department of ecology, department of agriculture,
2 fire districts, and local air pollution control authorities to
3 establish, through regulations, ordinances, or policy, a limited
4 burning permit program.

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

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

9 (b) In any city and urban growth area that is not otherwise
10 prohibited from burning pursuant to RCW 70.94.743 (as recodified by
11 this act).

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

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

17 (5) Notwithstanding any other provision of this section, neither a
18 permit nor the payment of a fee shall be required for outdoor burning
19 for the purpose of disposal of tumbleweeds blown by wind. Such burning
20 shall not be conducted during an air pollution episode or any stage of
21 impaired air quality declared under RCW ((70.94.714)) 70.94.715. This
22 subsection (5) shall only apply within counties with a population less
23 than two hundred fifty thousand.

24 (6) Burning shall be prohibited in an area when an alternate
25 technology or method of disposing of the organic refuse is available,
26 reasonably economical, and less harmful to the environment. It is the
27 policy of this state to foster and encourage development of alternate
28 methods or technology for disposing of or reducing the amount of
29 organic refuse.

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

32 (a) The burning is incidental to commercial agricultural
33 activities;

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

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

38 (d) Only the following items are burned:

- 1 (i) Orchard prunings;
- 2 (ii) Organic debris along fence lines or irrigation or drainage
- 3 ditches; or
- 4 (iii) Organic debris blown by wind.

5 (8) As used in this section, "nonurban areas" are unincorporated
6 areas within a county that (~~is~~) are not designated as (~~an~~) urban
7 growth areas under chapter 36.70A RCW.

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

13 **Sec. 302.** RCW 70.94.750 and 1991 c 199 s 412 are each amended to
14 read as follows:

15 The following outdoor fires described in this section may be burned
16 subject to the provisions of this chapter and also subject to city
17 ordinances, county resolutions, rules of fire districts and laws, and
18 rules enforced by the department of natural resources if a permit has
19 been issued by a fire protection agency, county, or conservation
20 district:

21 (1) Fires consisting of leaves, clippings, prunings and other yard
22 and gardening refuse originating on lands immediately adjacent and in
23 close proximity to a human dwelling and burned on such lands by the
24 property owner or his or her designee.

25 (2) Fires consisting of residue of a natural character such as
26 trees, stumps, shrubbery or other natural vegetation arising from land
27 clearing projects or agricultural pursuits for pest or disease control;
28 (~~provided~~) except that the fires described in this subsection may be
29 prohibited in those areas having a general population density of one
30 thousand or more persons per square mile.

31 **PART 4**

32 **AGRICULTURAL BURNING**

33 **Sec. 401.** RCW 70.94.650 and 1998 c 43 s 1 are each amended to read
34 as follows:

35 (1) Any person who proposes to set fires in the course of(~~+~~

1 ~~(a) Weed abatement;~~

2 ~~(b) Instruction in methods of fire fighting, except training to~~
3 ~~fight structural fires as provided in RCW 52.12.150 or training to~~
4 ~~fight aircraft crash rescue fires as provided in subsection (5) of this~~
5 ~~section, and except forest fire training; or~~

6 ~~(e))~~ agricultural activities((7)) shall obtain a permit from an
7 air pollution control authority, the department of ecology, or a local
8 entity delegated permitting authority under RCW 70.94.654 (as
9 recodified by this act). General permit criteria of statewide
10 applicability shall be established by the department, by rule, after
11 consultation with the various air pollution control authorities.

12 (a) Permits shall be issued under this section based on seasonal
13 operations or by individual operations, or both. ~~((All permits shall~~
14 ~~be conditioned))~~

15 (b) Incidental agricultural burning consistent with provisions
16 established in RCW 70.94.745 (as recodified by this act) is allowed
17 without applying for any permit and without the payment of any fee.

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

20 (a) Condition all permits to insure that the public interest in
21 air, water, and land pollution and safety to life and property is fully
22 considered~~((In addition to any other requirements established by the~~
23 ~~department to protect air quality pursuant to other laws, applicants~~
24 ~~for permits must show that the setting of fires as requested is the~~
25 ~~most reasonable procedure to follow in safeguarding life or property~~
26 ~~under all circumstances or is otherwise reasonably necessary to~~
27 ~~successfully carry out the enterprise in which the applicant is~~
28 ~~engaged, or both.))~~;

29 (b) Condition all burning permits ((will be designed)) to minimize
30 air pollution insofar as practical~~((Nothing in this section shall~~
31 ~~relieve the applicant from obtaining permits, licenses, or other~~
32 ~~approvals required by any other law.))~~;

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

1 ~~date such application is filed. The department of ecology and local~~
2 ~~air authorities shall));~~

3 (d) Provide convenient methods for issuance and oversight of
4 agricultural burning permits~~((The department and local air~~
5 ~~authorities shall,))~~); and

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

10 (3) A local air authority administering the permit program under
11 ((this)) subsection ((1)(e)) (2) of this section shall not limit the
12 number of days of allowable agricultural burning, but may consider the
13 time of year, meteorological conditions, and other criteria specified
14 in rules adopted by the department to implement ((this)) subsection
15 ((1)(e)) (2) of this section.

16 ((2)) (4) In addition to following any other requirements
17 established by the department to protect air quality pursuant to other
18 laws, applicants for permits must show that the setting of fires as
19 requested is the most reasonable procedure to follow in safeguarding
20 life or property under all circumstances or is otherwise reasonably
21 necessary to successfully carry out the enterprise in which the
22 applicant is engaged, or both. Nothing in this section relieves the
23 applicant from obtaining permits, licenses, or other approvals required
24 by any other law.

25 (5) The department of ecology, the appropriate local air authority,
26 or a local entity with delegated permitting authority pursuant to RCW
27 70.94.654 (as recodified by this act) at the time the permit is issued
28 shall assess and collect permit fees ((shall be assessed)) for burning
29 under this section ((and shall be collected by the department of
30 ecology, the appropriate local air authority, or a local entity
31 delegated permitting authority pursuant to RCW 70.94.654 at the time
32 the permit is issued)). All fees collected shall be deposited in the
33 air pollution control account created in RCW 70.94.015, except for that
34 portion of the fee necessary to cover local costs of administering a
35 permit issued under this section. Fees shall be set by rule by the
36 permitting agency at the level determined by the task force created by
37 subsection ((4)) (6) of this section, but shall not exceed two
38 dollars and fifty cents per acre to be burned. After fees are

1 established by rule, any increases in such fees shall be limited to
2 annual inflation adjustments as determined by the state office of the
3 economic and revenue forecast council.

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

10 ~~(4))~~ (6) An agricultural burning practices and research task force
11 shall be established under the direction of the department. The task
12 force shall be composed of a representative from the department who
13 shall serve as chair; one representative of eastern Washington local
14 air authorities; three representatives of the agricultural community
15 from different agricultural pursuits; one representative of the
16 department of agriculture; two representatives from universities or
17 colleges knowledgeable in agricultural issues; one representative of
18 the public health or medical community; and one representative of the
19 conservation districts. The task force shall:

20 (a) Identify best management practices for reducing air contaminant
21 emissions from agricultural activities and provide such information to
22 the department and local air authorities(~~((The task force shall))~~);

23 (b) Determine the level of fees to be assessed by the permitting
24 agency pursuant to subsection ~~((2))~~ (5) of this section, based upon
25 the level necessary to cover the costs of administering and enforcing
26 the permit programs, to provide funds for research into alternative
27 methods to reduce emissions from such burning, and to the extent
28 possible be consistent with fees charged for such burning permits in
29 neighboring states. The fee level shall provide, to the extent
30 possible, for lesser fees for permittees who use best management
31 practices to minimize air contaminant emissions(~~((The task force
32 shall))~~);

33 (c) Identify research needs related to minimizing emissions from
34 agricultural burning and alternatives to such burning(~~((Further, the
35 task force shall))~~); and

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

1 ~~((5) A permit is not required under this section, or under RCW~~
2 ~~70.94.743 through 70.94.780, from an air pollution control authority,~~
3 ~~the department, or any local entity with delegated permit authority,~~
4 ~~for aircraft crash rescue fire training activities meeting the~~
5 ~~following conditions:~~

6 ~~(a) Firefighters participating in the training fires must be~~
7 ~~limited to those who provide fire fighting support to an airport that~~
8 ~~is either certified by the federal aviation administration or operated~~
9 ~~in support of military or governmental activities;~~

10 ~~(b) The fire training may not be conducted during an air pollution~~
11 ~~episode or any stage of impaired air quality declared under RCW~~
12 ~~70.94.715 for the area where training is to be conducted;~~

13 ~~(c) The number of training fires allowed per year without a permit~~
14 ~~shall be the minimum number necessary to meet federal aviation~~
15 ~~administration or other federal safety requirements;~~

16 ~~(d) The facility shall use current technology and be operated in a~~
17 ~~manner that will minimize, to the extent possible, the air contaminants~~
18 ~~generated during operation; and~~

19 ~~(e) Prior to the commencement of the aircraft fire training, the~~
20 ~~organization conducting training shall notify both the: (i) Local fire~~
21 ~~district or fire department; and (ii) air pollution control authority,~~
22 ~~department of ecology, or local entity delegated permitting authority~~
23 ~~under RCW 70.94.654, having jurisdiction within the area where training~~
24 ~~is to be conducted.~~

25 ~~Written approval from the department or a local air pollution~~
26 ~~control authority shall be obtained prior to the initial operation of~~
27 ~~aircraft crash rescue fire training. Such approval will be granted to~~
28 ~~fire training activities meeting the conditions in this subsection.~~

29 ~~(6) Aircraft crash rescue fire training activities conducted in~~
30 ~~compliance with this subsection are not subject to the prohibition, in~~
31 ~~RCW 70.94.775(1), of outdoor fires containing petroleum products and~~
32 ~~are not considered outdoor burning under RCW 70.94.743 through~~
33 ~~70.94.780.~~

34 ~~(7) To provide for fire fighting instruction in instances not~~
35 ~~governed by subsection (6) of this section, or other actions to protect~~
36 ~~public health and safety, the department or a local air pollution~~
37 ~~control authority may issue permits that allow limited burning of~~
38 ~~prohibited materials listed in RCW 70.94.775(1).))~~

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

7 (8)(a) Outdoor burning that is normal, necessary, and customary to
8 ongoing agricultural activities, that is consistent with agricultural
9 burning authorized under this section and RCW 70.94.656 (as recodified
10 by this act), is allowed within the urban growth area as described in
11 RCW 70.94.743 (as recodified by this act) if the burning is not
12 conducted during air quality episodes, or where a determination of
13 impaired air quality has been made as provided in RCW 70.94.473, and
14 the agricultural activities preceded the designation as an urban growth
15 area.

16 (b) Outdoor burning of cultivated orchard trees, whether or not
17 agricultural crops will be replanted on the land, shall be allowed as
18 an ongoing agricultural activity under this section if a local
19 horticultural pest and disease board formed under chapter 15.09 RCW, an
20 extension office agent with Washington State University that has
21 horticultural experience, or an entomologist employed by the department
22 of agriculture, has determined in writing that burning is an
23 appropriate method to prevent or control the spread of horticultural
24 pests or diseases.

25 **Sec. 402.** RCW 70.94.654 and 1993 c 353 s 2 are each amended to
26 read as follows:

27 Whenever an air pollution control authority, or the department of
28 ecology for areas outside the jurisdictional boundaries of an activated
29 air pollution control authority, shall find that any fire protection
30 agency, county, or conservation district is capable of effectively
31 administering the issuance and enforcement of permits for any or all of
32 the kinds of burning identified in RCW 70.94.650 (as recodified by this
33 act) and sections 601 and 704 of this act and desirous of doing so, the
34 authority or the department of ecology, as appropriate, may delegate
35 powers necessary for the issuance or enforcement, or both, of permits
36 for any or all of the kinds of burning to the fire protection agency,
37 county, or conservation district. Such delegation may be withdrawn by

1 the authority or the department of ecology upon finding that the fire
2 protection agency, county, or conservation district is not effectively
3 administering the permit program.

4 **Sec. 403.** RCW 70.94.656 and 1998 c 245 s 130 are each amended to
5 read as follows:

6 It is hereby declared to be the policy of this state that strong
7 efforts should be made to minimize adverse effects on air quality from
8 the open burning of field and turf grasses grown for seed. To such end
9 this section is intended to promote the development of economical and
10 practical alternate agricultural practices to such burning, and to
11 provide for interim regulation of such burning until practical
12 alternates are found.

13 (1) The department shall approve of a study or studies for the
14 exploration and identification of economical and practical alternate
15 agricultural practices to the open burning of field and turf grasses
16 grown for seed. Any study conducted pursuant to this section shall be
17 conducted by Washington State University. The university may not
18 charge more than eight percent for administrative overhead. Prior to
19 the issuance of any permit for such burning under RCW 70.94.650 (as
20 recodified by this act), there shall be collected a fee not to exceed
21 one dollar per acre of crop to be burned. Any such fees received by
22 any authority shall be transferred to the department of ecology. The
23 department of ecology shall deposit all such acreage fees in a special
24 grass seed burning research account, hereby created, in the state
25 treasury.

26 (2) The department shall allocate moneys annually from this account
27 for the support of any approved study or studies as provided for in
28 subsection (1) of this section. Whenever the department of ecology
29 shall conclude that sufficient reasonably available alternates to open
30 burning have been developed, and at such time as all costs of any
31 studies have been paid, the grass seed burning research account shall
32 be dissolved, and any money remaining therein shall revert to the
33 general fund. The fee collected under subsection (1) of this section
34 shall constitute the research portion of fees required under RCW
35 70.94.650 (as recodified by this act) for open burning of grass grown
36 for seed.

1 (3) Whenever on the basis of information available to it, the
2 department after public hearings have been conducted wherein testimony
3 will be received and considered from interested parties wishing to
4 testify shall conclude that any procedure, program, technique, or
5 device constitutes a practical alternate agricultural practice to the
6 open burning of field or turf grasses grown for seed, the department
7 shall, by order, certify approval of such alternate. Thereafter, in
8 any case which any such approved alternate is reasonably available, the
9 open burning of field and turf grasses grown for seed shall be
10 disallowed and no permit shall issue therefor.

11 (4) Until approved alternates become available, the department or
12 the authority may limit the number of acres on a pro rata basis among
13 those affected for which permits to burn will be issued in order to
14 effectively control emissions from this source.

15 (5) Permits issued for burning of field and turf grasses may be
16 conditioned to minimize emissions insofar as practical, including
17 denial of permission to burn during periods of adverse meteorological
18 conditions.

19 (6) (~~By November 1, 1996, and~~) Every two years (~~thereafter~~)
20 until grass seed burning is prohibited, Washington State University may
21 prepare a brief report assessing the potential of the university's
22 research to result in economical and practical alternatives to grass
23 seed burning.

24 **PART 5**

25 **SILVICULTURAL BURNING**

26 **Sec. 501.** RCW 70.94.660 and 1991 c 199 s 404 are each amended to
27 read as follows:

28 (1) The department of natural resources shall have the
29 responsibility for issuing and regulating burning permits required by
30 it relating to the following activities for the protection of life or
31 property and/or for the public health, safety, and welfare:

32 (a) Abating a forest fire hazard;

33 (b) Prevention of a fire hazard;

34 (c) Instruction of public officials in methods of forest fire
35 fighting;

1 (d) Any silvicultural operation to improve the forest lands of the
2 state; and

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

7 (2) The department of natural resources shall not retain such
8 authority, but it shall be the responsibility of the appropriate fire
9 protection agency for permitting and regulating outdoor burning on
10 lands where the department of natural resources does not have fire
11 protection responsibility.

12 (3) Permit fees shall be assessed for silvicultural burning under
13 the jurisdiction of the department of natural resources and collected
14 by the department of natural resources as provided for in this section.
15 All fees shall be deposited in the air pollution control account,
16 created in RCW 70.94.015. The legislature shall appropriate to the
17 department of natural resources funds from the air pollution control
18 account to enforce and administer the program under RCW 70.94.665 and
19 70.94.660, 70.94.670, and 70.94.690 (as recodified by this act). Fees
20 shall be set by rule by the department of natural resources at the
21 level necessary to cover the costs of the program after receiving
22 recommendations on such fees from the public and the forest fire
23 advisory board established by RCW 76.04.145.

24 **Sec. 502.** RCW 70.94.670 and 1991 c 199 s 405 are each amended to
25 read as follows:

26 The department of natural resources in granting burning permits for
27 fires for the purposes set forth in RCW 70.94.660 (as recodified by
28 this act) shall condition the issuance and use of such permits to
29 comply with air quality standards established by the department of
30 ecology after full consultation with the department of natural
31 resources. Such burning shall not cause the state air quality
32 standards to be exceeded in the ambient air up to two thousand feet
33 above ground level over critical areas designated by the department of
34 ecology, otherwise subject to air pollution from other sources. Air
35 quality standards shall be established and published by the department
36 of ecology which shall also establish a procedure for advising the
37 department of natural resources when and where air contaminant levels

1 exceed or threaten to exceed the ambient air standards over such
2 critical areas. The air quality shall be quantitatively measured by
3 the department of ecology or the appropriate local air pollution
4 control authority at established monitoring stations over such
5 designated areas. Further, such permitted burning shall not cause
6 damage to public health or the environment. All permits issued under
7 this section shall be subject to all applicable fees, permitting,
8 penalty, and enforcement provisions of this chapter. The department of
9 natural resources shall set forth smoke dispersal objectives designed
10 consistent with this section to minimize any air pollution from such
11 burning and the procedures necessary to meet those objectives.

12 The department of natural resources shall encourage more intense
13 utilization in logging and alternative silviculture practices to reduce
14 the need for burning. The department of natural resources shall,
15 whenever practical, encourage landowners to develop and use alternative
16 acceptable disposal methods subject to the following priorities: (1)
17 Slash production minimization, (2) slash utilization, (3) nonburning
18 disposal, (4) silvicultural burning. Such alternative methods shall be
19 evaluated as to the relative impact on air, water, and land pollution,
20 public health, and their financial feasibility.

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

25 **Sec. 503.** RCW 70.94.690 and 1991 c 199 s 406 are each amended to
26 read as follows:

27 In the regulation of outdoor burning not included in RCW 70.94.660
28 (as recodified by this act) requiring permits from the department of
29 natural resources, said department and the state, local, or regional
30 air pollution control authorities will cooperate in regulating such
31 burning so as to minimize insofar as possible duplicate inspections and
32 separate permits while still accomplishing the objectives and
33 responsibilities of the respective agencies. The department of natural
34 resources shall include any local authority's burning regulations with
35 permits issued where applicable pursuant to RCW (~~(70.94.740)~~) 70.94.743
36 through 70.94.775 (as recodified by this act). The department shall

1 develop agreements with all local authorities to coordinate
2 regulations.

3 Permits shall be withheld by the department of natural resources
4 when so requested by the department of ecology if a forecast, alert,
5 warning, or emergency condition exists as defined in the episode
6 criteria of the department of ecology.

7 **Sec. 504.** RCW 70.94.700 and 1971 ex.s. c 232 s 6 are each amended
8 to read as follows:

9 The department of natural resources and the department of ecology
10 may adopt rules (~~(and regulations)~~) necessary to implement their
11 respective responsibilities under the provisions of RCW 70.94.650
12 through 70.94.700 (as recodified by this act).

13 **PART 6**

14 **AIRCRAFT CRASH RESCUE AND OTHER FIREFIGHTER TRAINING**

15 NEW SECTION. **Sec. 601.** A new section is added to chapter 70.94
16 RCW under the subchapter heading "outdoor burning" to read as follows:

17 (1) Aircraft crash rescue fire training activities meeting the
18 following conditions do not require a permit under this section, or
19 under RCW 70.94.743 through 70.94.780 (as recodified by this act), from
20 an air pollution control authority, the department, or any local entity
21 with delegated permit authority:

22 (a) Firefighters participating in the training fires must be
23 limited to those who provide fire fighting support to an airport that
24 is either certified by the federal aviation administration or operated
25 in support of military or governmental activities;

26 (b) The fire training may not be conducted during an air pollution
27 episode or any stage of impaired air quality declared under RCW
28 70.94.715 for the area where training is to be conducted;

29 (c) The number of training fires allowed per year without a permit
30 shall be the minimum number necessary to meet federal aviation
31 administration or other federal safety requirements;

32 (d) The facility shall use current technology and be operated in a
33 manner that will minimize, to the extent possible, the air contaminants
34 generated during operation; and

1 (e) The organization conducting training shall notify both the:
2 (i) Local fire district or fire department; and (ii) air pollution
3 control authority, department of ecology, or local entity delegated
4 permitting authority under RCW 70.94.654 (as recodified by this act),
5 having jurisdiction within the area where training is to be conducted
6 before the commencement of aircraft fire training. Written approval
7 from the department or a local air pollution control authority shall be
8 obtained prior to the initial operation of aircraft crash rescue fire
9 training. Such approval will be granted to fire training activities
10 meeting the conditions in this subsection.

11 (2) Aircraft crash rescue fire training activities conducted in
12 compliance with subsection (1) of this section are not subject to the
13 prohibition, in RCW 70.94.775(1)(as recodified by this act), of outdoor
14 fires containing petroleum products and are not considered outdoor
15 burning under RCW 70.94.743 through 70.94.780 (as recodified by this
16 act).

17 (3) Training to fight structural fires located outside urban growth
18 areas in counties that plan under the requirements of RCW 36.70A.040
19 and outside of any city with a population of ten thousand or more in
20 all other counties does not need a permit under this section from an
21 air pollution control authority or the department of ecology, but must
22 be conducted in accordance with RCW 52.12.150.

23 (4) Training to fight forest fires does not require a permit from
24 an air pollution control authority or the department of ecology.

25 (5) To provide for fire fighting instruction in instances not
26 governed by subsections (1) through (3) of this section, or other
27 actions to protect public health and safety, the department or a local
28 air pollution control authority may issue permits that allow limited
29 burning of prohibited materials listed in RCW 70.94.775(1) (as
30 recodified by this act).

31 **PART 7**
32 **OUTDOOR BURNING--OTHER**

33 NEW SECTION. **Sec. 701.** A new section is added to chapter 70.94
34 RCW under the subchapter heading "outdoor burning" to read as follows:
35 Consistent with RCW 70.94.743 (as recodified by this act), outdoor

1 burning may be allowed anywhere in the state for the exclusive purpose
2 of managing storm or flood-related debris.

3 NEW SECTION. **Sec. 702.** A new section is added to chapter 70.94
4 RCW under the subchapter heading "outdoor burning" to read as follows:

5 Nothing in this chapter prohibits fires necessary for Indian
6 ceremonies or for the sending of smoke signals if part of a religious
7 ritual. Permits issued for burning under this section shall be drafted
8 to minimize emissions including denial of permission to burn during
9 periods of adverse meteorological conditions.

10 **Sec. 703.** RCW 70.94.651 and 1991 c 199 s 407 are each amended to
11 read as follows:

12 Nothing (~~(contained)~~) in this chapter (~~(shall)~~) prohibits fires
13 necessary(~~(; (1))~~) to promote the regeneration of rare and endangered
14 plants found within natural area preserves as identified under chapter
15 79.70 RCW(~~(; and (2) for Indian ceremonies or for the sending of smoke~~
16 ~~signals if part of a religious ritual)~~). Permits issued for burning
17 under this section shall be drafted to minimize emissions including
18 denial of permission to burn during periods of adverse meteorological
19 conditions.

20 NEW SECTION. **Sec. 704.** A new section is added to chapter 70.94
21 RCW under the subchapter heading "outdoor burning" to read as follows:

22 Any person who proposes to set fires in the course of weed
23 abatement shall obtain a permit from an air pollution control
24 authority, the department of ecology, or a local entity delegated
25 permitting authority under RCW 70.94.654 (as recodified by this act).
26 General permit criteria of statewide applicability shall be established
27 by the department, by rule, after consultation with the various air
28 pollution control authorities. Permits shall be issued under this
29 section based on seasonal operations or by individual operations, or
30 both. All permits shall be conditioned to insure that the public
31 interest in air, water, and land pollution and safety to life and
32 property is fully considered. In addition to any other requirements
33 established by the department to protect air quality pursuant to other
34 laws, applicants for permits must show that the setting of fires as
35 requested is the most reasonable procedure to follow in safeguarding

1 life or property under all circumstances or is otherwise reasonably
2 necessary to successfully carry out the enterprise in which the
3 applicant is engaged, or both. All burning permits will be designed to
4 minimize air pollution insofar as practical. Nothing in this section
5 relieves the applicant from obtaining permits, licenses, or other
6 approvals required by any other law. An application for a permit to
7 set fires in the course of weed abatement shall be acted upon within
8 seven days from the date such application is filed.

9 NEW SECTION. **Sec. 705.** A new section is added to chapter 70.94
10 RCW under the subchapter heading "outdoor burning" to read as follows:

11 Consistent with RCW 70.94.745 (as recodified by this act), neither
12 a permit nor the payment of a fee shall be required for outdoor burning
13 for the purpose of disposal of tumbleweeds blown by wind. Such burning
14 shall not be conducted during an air pollution episode or any stage of
15 impaired air quality declared under RCW 70.94.715. This section shall
16 only apply within counties with a population less than two hundred
17 fifty thousand.

18 **PART 8**

19 **MISCELLANEOUS PROVISIONS**

20 NEW SECTION. **Sec. 801.** Part headings as used in this act are not
21 any part of the law.

22 NEW SECTION. **Sec. 802.** The following sections are recodified in
23 chapter 70.94 RCW in the following order under the subchapter heading
24 "outdoor burning."

25 RCW 70.94.775

26 RCW 70.94.743

27 RCW 70.94.780

28 RCW 70.94.755

29 RCW 70.94.760

30 RCW 70.94.765

31 RCW 70.94.745

32 RCW 70.94.750

33 RCW 70.94.650

34 RCW 70.94.654

1 RCW 70.94.656
2 RCW 70.94.660
3 RCW 70.94.665
4 RCW 70.94.670
5 RCW 70.94.690
6 RCW 70.94.700
7 RCW 70.94.651

8 NEW_SECTION. **Sec. 803.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

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