

WAC 173-430-030 Definition of terms. The definitions of terms contained in chapter 173-400 WAC are incorporated into this chapter by reference. Unless a different meaning is clearly required by context, the meanings of the following words and phrases used in this chapter are listed below.

(1) **Agricultural burning:** Means the burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation or crop rotation, or where identified as a best management practice by the agricultural burning practices and research task force established in RCW ((70.94.6528(6))) 70A.15.5090(6) or other authoritative source on agricultural practices. Propane flaming for the purpose of vegetative debris removal is considered commercial agricultural burning.

(2) **Agricultural operation:** Means a farmer who can substantiate that the operation is commercial agriculture by showing the most recent year's IRS schedule F form or its corporate equivalent. It also includes burning conducted by irrigation district or drainage district personnel as part of water system management.

(3) **Air pollution episode:** Means a period when a forecast, alert, warning, or emergency air pollution stage is declared as described in RCW ((70.94.715)) 70A.15.6010.

(4) **Best management practice:** Means the criteria established by the agricultural burning practices and research task force (task force).

(5) **Certify:** Means to declare in writing, based on belief after reasonable inquiry, that the statements and information provided are true, accurate, and complete.

(6) **Ecology:** Means the Washington state department of ecology.

(7) **Farmer:** Means any person engaged in the business of growing or producing for sale any agricultural product upon their own lands, or upon the land in which they have a present right of possession, any agricultural product. Farmer does not mean persons growing or producing products primarily for their own consumption.

(8) **Field burning:** Agricultural burning of vegetative residue on an area of land used in an agricultural operation. Field burning does not include pile burning.

(9) **"Flame cap kiln"** means an outdoor container used for the combustion of natural vegetation from silvicultural or agricultural activities that meets the following requirements:

(a) Has a solid or sealed bottom including, but not limited to, mineral soils, so that all air for combustion comes from above;

(b) Is completely open on top with no restrictions;

(c) Is a shallow container where the width is greater than the height; and

(d) Has a volume of 10 cubic meters or less.

(10) **Impaired air quality:** Means an impaired air quality condition declared by ecology or a local air authority with jurisdiction in accordance with RCW ((70.94.473)) 70A.15.3580.

((+10+)) (11) **Outdoor burning:** Means all forms of burning except those listed as exempt in WAC 173-425-020.

((+11+)) (12) **Permitting authority:** Means ecology or its delegate or a local air authority with jurisdiction or its delegate. Conservation districts, counties, fire districts, or fire protection agencies

may receive delegation for all or portions of the agricultural burning permit program as identified in a delegation agreement. The permitting authority will issue agricultural burning permits for a given locale.

~~((12))~~ **(13) Pile burning:** Agricultural burning of stacked vegetative residue from an agricultural operation. Burning of windrows does not qualify as pile burning.

~~((13))~~ **(14) Silvicultural burning:** Means burning on any land the department of natural resources protects per RCW ~~((70.94.030(13), 70.94.6534, 70.94.6540))~~ 70A.15.1030(22), 70A.15.5120, 70A.15.5150, and under chapter 76.04 RCW.

~~((14))~~ **(15) Spot burn:** Agricultural burning of an unforeseen and unpredicted small area where burning is reasonably necessary and no practical alternative to burning exists. Examples of spot burns include small weed patches, spots of heavy residue, equipment plugs, and harrow dumps. Burning of windrows does not qualify as a spot burn.

~~((15))~~ **(16) Task force:** Means the agricultural burning practices and research task force.

AMENDATORY SECTION (Amending WSR 10-23-049, filed 11/10/10, effective 12/11/10)

WAC 173-430-040 Agricultural burning requirements. (1) Agricultural burning is allowed when it is reasonably necessary to carry out the enterprise. A farmer can show it is reasonably necessary when it meets the criteria of the best management practices and no practical alternative is reasonably available. In certain circumstances, ecology may certify an alternative to burning. Where the certified alternative is reasonably available, burning is not allowed. Certified alternatives are described in WAC 173-430-045. The use of a flame cap kiln as defined in WAC 173-430-030 is acceptable as long as permitting processes and fee requirements are followed.

(2) For allowed agricultural burning, ecology or local air authorities with jurisdiction will make daily or specific fire burn calls (during times of anticipated burning) and use metering when necessary to minimize the potential for adverse air quality impacts. Metering is a technique of limiting emission from burning at specific times and places by ~~((taking into account))~~ considering potential emission rates, forecasted weather (dispersion), and current and projected air quality. The burn decision process will consider: The potential number of burns and their expected size(s) and duration(s); recent and current ambient concentrations of pollutants; other potential emissions sources; and evaluations and judgments about how foreseeable meteorological conditions will affect concentrations of pollutants in the air sheds.

(a) For the purposes of this section: The smoke management index is a set of conditions that guide the production of certain reports as described in (c) of this subsection and evaluations as described in (d) of this subsection. The smoke management index is not an air quality standard as defined in RCW ~~((70.94.030(4))~~ 70A.15.1030(4) and further identified in RCW ~~((70.94.331))~~ 70A.15.3000. The smoke management index is not an emission standard as defined in RCW ~~((70.94.030(9))~~ 70A.15.1030(12) and further identified in RCW ~~((70.94.331))~~ 70A.15.3000. The smoke management index is not an air pollution episode as described in RCW ~~((70.94.710))~~ 70A.15.6000.

(b) Ecology and local air authorities making daily or specific fire burn calls in areas where PM2.5 concentrations are regularly monitored will follow the procedures in (c) of this subsection when making the burn decision whenever either of the following smoke management index conditions exist:

(i) A most recent daily average (~~((twenty-four))~~) 24 hour) PM2.5 concentration was equal to or greater than 16 micrograms per cubic meter. This is based on the division between the "good" and "moderate" classifications of the 2009 U.S. Environmental Protection Agency's Air Quality Index (AQI) for (~~((twenty-four))~~) 24 hours average PM2.5) particulate matter.

(ii) A two-hour rolling average PM2.5 concentration, during the most recent (~~((twenty-four to thirty))~~) 24 to 30 hours was equal to or greater than the regional seasonal average PM2.5 concentration plus 15 micrograms per cubic meter.

(c) In authorizing additional burning, a determination will be documented explaining that the decision to allow additional burning is not expected to result in a further significant deterioration of air quality. The determination will be entered on a standard form noting the date, time, the location of the additional burning, the size of the burn(s), and a brief explanation of the opinion as to why the additional burning is not expected to result in a further, significant reduction of air quality. The purpose of the determination and record-keeping requirements of this section is to enhance agency and public understanding of the effectiveness of the daily burn and metering decision-making process, and to improve its application over time. A notice of the determinations will be made by ecology or a local air authority with jurisdiction at the time the daily burn decision is communicated. Ecology or a local air authority with jurisdiction will also periodically make the determination forms conveniently available to the public.

(d) Following a determination described in (c) of this subsection and a deterioration of air quality to levels equal to or greater than a two-hour rolling average concentration of the regional seasonal average PM2.5 concentration plus 25 micrograms per cubic meter in the specific area during the (~~((twenty))~~) 20 hours following such determination, ecology or the local air authority with jurisdiction will evaluate the deterioration and document any findings and opinions regarding why the deterioration occurred. Ecology or the local air authority with jurisdiction will make evaluations under this subsection conveniently available to the public.

(e) Ecology or a local air authority with jurisdiction may evaluate emission dispersion impacts in the regular course of business. In addition, ecology or the local air authority with jurisdiction will produce an annual report summarizing determinations and evaluations under the smoke management index.

(f) Under RCW (~~((70.94.473 and 70.94.6512))~~) 70A.15.3580 and 70A.15.5010, no burning is authorized when an air quality alert, warning, emergency or impaired air quality condition has been issued.

(g) For purposes of protecting public health (not eliminating agricultural burning), if an area exceeds or threatens to exceed unhealthy air pollution levels, the permitting authority may limit the number of acres, on a pro rata basis as provided by RCW (~~((70.94.6532 or by 70.94.6528))~~) 70A.15.5110 or by 70A.15.5090.

(3) Except as described in WAC 173-430-020(5), all agricultural burning requires a permit.

(a) Ecology or local air authorities with jurisdiction will provide agricultural burning application forms for agricultural burning.

(b) To qualify for an agricultural burning permit the farmer must be an agricultural operation or government entity with specific agricultural burning needs, such as irrigation districts, drainage districts, and weed control boards.

(c) Application information. A farmer must fill out the information requested on a permit application, pay the permitting fee, and submit it to the permitting authority for review and approval before burning.

(i) The application must describe the reason for burning and include at least the following information: Name and address of the person or corporation responsible for the burn, the specific location (county; legal description: Section, township, range, block and unit number), the crop type, the type or size of the burn, driving directions to the burn, specific reason for the burn, the target date for burning, a map, signature of the responsible party, and any additional information required by the permitting authority. Each permitting authority may require additional information on the application.

(ii) All applications must comply with other state or local rules.

(d) The permitting authority must evaluate the application, and approve the permit before burning.

(e) Permit decisions including the issuance, denial, or conditioning must be based on consideration of air quality conditions in the area affected by the proposed burning, the time of year, meteorological conditions, the size and duration of the proposed burning activity, the type and amount of vegetative material to be burned, the applicant's need to carry out the burning, existence of extreme burning conditions, risk of escape onto property owned by another, and the public's interest in the environment.

(f) Ecology or its delegate, or a local air authority with jurisdiction, or its delegate must approve or deny the permit in part or in whole based on information in the application.

(g) Ecology and its delegate or a local air authority with jurisdiction or its delegate may issue permits for appropriate agricultural burning activities in nonattainment areas, maintenance areas, and urban growth areas as described in RCW ((~~70.94.6514~~)) 70A.15.5020.

(4) All agricultural burning permits require a fee.

The applicant must include the fee when submitting the application. The permitting authority will charge fees as described under WAC 173-430-041.

(5) All agricultural burning permits must include conditions intended to minimize air pollution.

(a) A farmer must comply with the conditions on the agricultural burning permit.

(b) Permits must be conditioned to minimize emissions and impacts insofar as practical, including denial of permission to burn during periods of adverse meteorological conditions. When necessary as determined by ecology or the local air authorities to ensure compliance with the act, permit conditions will include at least one of the following:

- The use of a daily burn decision.
- Permit specific decisions.
- Metering.

(c) The permitting authority must:

(i) Act on a complete application (as determined by the permitting authority) within seven days of receipt.

(ii) Evaluate the application and approve or deny all or part of it.

(iii) Evaluate the application to determine if the requested burning is within the general or crop-specific best management practices.

(iv) If the permitting authority denies the application, they must state the reason for the denial.

(6) Other laws. A farmer must obtain any local permits, licenses, or other approvals required by any other laws, rules, or ordinances. The farmer must also honor other agreements entered into with any federal, state, or local agency.