

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 266

FIELD BURNING RULES (WILLAMETTE VALLEY)

340-266-0010

Introduction

(1) ~~Except for the fee in OAR 340-266-0140, T~~his Division applies to the open field burning, propane flaming, and stack ~~and pile~~ burning of all perennial and annual grass seed and cereal grain crops, and associated residue within Multnomah, Washington, Clackamas, Marion, Polk, Yamhill, Linn, Benton and Lane Counties, herein referred to as the Willamette Valley. It also includes rules pertaining to fees for open field burning of perennial and annual grass seed crops in counties outside the Willamette Valley. The open burning of all other agricultural waste material, including sanitizing perennial and annual grass seed crops by open burning in counties outside the Willamette Valley, (referred to as "fourth priority agricultural burning") is governed by OAR Chapter 340, Division 264, Rules for Open Burning. Enforcement procedure and civil penalties for open field burning, propane flaming, and stack ~~and pile~~ burning ~~can be found~~ are established in OAR Chapter 603, Division 077 and Chapter 340, Division 12.

(2) Organization of rules:

(a) OAR 340-266-0020 is the policy statement of the Environmental Quality Commission setting forth the goals of this Division;

(b) OAR 340-266-0030 contains definitions of terms which have specialized meanings within the context of this Division;

(c) OAR 340-266-0040 lists general provisions and requirements pertaining to all open field burning, propane flaming, and stack ~~and pile~~ burning with particular emphasis on the duties and responsibilities of the grower registrant;

(d) OAR 340-266-0050 lists procedures and requirements for registration of acreage, issuance of permits, collection of fees, and keeping of records, with particular emphasis on the duties and responsibilities of the local permit issuing agencies;

(e) OAR 340-266-0060 establishes acreage limits and methods of determining acreage allocations;

(f) OAR 340-266-0065 establishes special provisions pertaining to "emergency open burning".

~~(fg)~~ OAR 340-266-0070 establishes criteria for authorization of open field burning, propane flaming, and stack ~~and pile~~ burning pursuant to the administration of a daily smoke management control program;

(h) OAR 340-266-0075 establishes special provisions pertaining to areas where field burning is either prohibited or restricted.

(~~g~~i) OAR 340-266-0080 establishes special provisions pertaining to field burning by public agencies for official purposes, such as "training fires";

(~~h~~j) OAR 340-266-0090 establishes special provisions pertaining to "preparatory burning";

(~~i~~k) OAR 340-266-0100 establishes special provisions pertaining to open field burning for experimental purposes;

(~~j~~l) OAR 340-166-0110 establishes special provisions ~~and procedures~~ pertaining to emergency cessation of burning;

(~~k~~m) OAR 340-266-0120 establishes special provisions pertaining to propane flaming;

(~~l~~o) OAR 340-266-0130 establishes special provisions pertaining to "stack ~~and piling~~ burning".

(p) OAR 340-266-0140 contains a requirement for fees for open field burning in counties outside of the Willamette Valley.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 5-1984, f. & ef. 3-7-84; DEQ 12-1984, f. & ef. 7-13-84; DEQ 11-1987, f. & ef. 6-15-87; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0001

340-266-0020

Policy

In the interest of public health and welfare, it is the declared public policy of the State of Oregon to reduce the practice of open field burning while developing and providing alternative methods of field sanitation and alternative methods of utilizing and marketing grass seed and cereal grain straw residues and to control, reduce, and prevent air pollution from open field burning, propane flaming, and stack ~~and pile~~ burning by smoke management. In developing and carrying out a smoke management control program it is the policy of the Environmental Quality Commission:

(1) To ~~allow provide~~ for a maximum level of field burning based on the limits specified in state law while protecting public health and welfare with a minimum level of smoke impact on the public, recognizing:

(a) The importance of flexibility and judgment in the daily decision-making process, within established and necessary limits;

(b) The need for operational efficiency within and between each organizational level;

(c) The need for effective compliance with all regulations and restrictions.

(2) To study, develop and encourage the use of reasonable and economically feasible alternatives to the practice of open field burning.

(3) To increase the degree of public safety by preventing unwanted wild fires and smoke from open field burning, propane flaming, and stack burning near highways and freeways within the State of Oregon. The Environmental Quality Commission hereby adopts by reference, as rules of the Environmental Quality Commission, OAR 837-110-01~~4005~~ through 837-110-01~~6055~~, the rules of the State Fire Marshal filed with the Secretary of State on ~~February 7, 1994~~ November 13, 2009. These rules shall apply to that area west of the Cascade Range and south to the Douglas/Lane County lines.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 5-1984, f. & ef. 3-7-84; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0003

340-266-0030

Definitions

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

(1) "Actively Extinguish" means the direct application of water or other fire retardant to an open field fire.

~~(2) "Approved Alternative Method(s)" means any method approved by the Department to be a satisfactory alternative field sanitation method to open field burning.~~

~~(3) "Approved Alternative Facilities" means any land, structure, building, installation, excavation, machinery, equipment, or device approved by the Department for use in conjunction with an approved alternative method.~~

(2) "Burning Permit" or "Burn Permit" or "Permit" means a permit issued by the Department pursuant to ORS 468A.575.

(43) "Candidate Fields" means all grass seed or cereal grain fields being considered for open field burning or propane flaming.

(54) "Commission" means the Environmental Quality Commission.

(5) "Critical Non-Burn Area" means an area in a grass seed or cereal grain field where burning is prohibited, such as underneath power transmission lines, or near a school, airport, or hospital, pursuant to OAR 340-266-0075. This prohibition may be permanent or for a limited period of time, where provided in these rules.

(6) "Cumulative Hours of Smoke Intrusion in the Eugene-Springfield Area" means the average of the totals of cumulative hours of smoke intrusion recorded for the Eugene site and the Springfield site, where it has been determined by ~~Provided~~ the Department ~~determines~~ that open field burning, propane flaming, or stack burning was a significant contributor to the smoke intrusion:

(a) The Department shall record one hour of intrusion for each hour the nephelometer hourly reading exceeds a background level by 1.8×10^{-4} b-scat units or more but less than the applicable value in subsection (b) ~~or (c)~~ of this section;

(b) ~~Between June 16 and September 14 of each year, The Department shall record~~ two hours of smoke intrusion ~~shall be recorded~~ for each hour the nephelometer hourly reading exceeds a background level by 5.0×10^{-4} b-scat units;

~~(c) Between September 15 and June 15 of each year, two hours of intrusion shall be recorded for each hour the nephelometer hourly reading exceeds a background level by 4.0×10^{-4} b-scat units;~~

~~(c)~~ The background level shall be the average of the three hourly readings immediately prior to the intrusion.

(7) "Department" means the Oregon Department of Agriculture ~~Environmental Quality, except for OAR 340-266-0065, where this means the Department of Environmental Quality. Under ORS 468A.575, the Department of Environmental Quality~~ may enter into contracts with the Oregon Department of Agriculture or other agencies to carry out ~~the purposes set forth in~~ these rules to the extent permitted by law.

(8) "Director" means the Director of the Department of Environmental Quality or delegated employee representative pursuant to ORS 468.045(3).

(9) "Director of Agriculture" means the Director of the Oregon Department of Agriculture.

~~(9) "District Allocation" means the total amount of acreage sub-allocated annually to the fire district, based on the district's pro rata share of the maximum annual acreage limitation, representing the maximum amount for which burning permits may be issued within the district, subject to daily authorization. District allocation is defined by the following identity: [Formula not included. See ED-NOTE.]~~

(10) "Drying Day" means a 24-hour period during which the relative humidity reached a minimum less than 50 percent and no rainfall was recorded at the nearest reliable measuring site.

(11) "Effective Mixing Height" means either the actual height of plume rise as determined by ~~aircraft measurement field observation~~ or the calculated or estimated mixing height as determined by the Department, ~~whichever is greater~~.

(12) "Emergency Open Burning" means the open burning, propane flaming, or stack burning of a grass seed or cereal grain field infested with a disease or pest, where an extreme hardship exists due to a disease outbreak or insect infestation that outweighs the dangers to public health and safety from the burning, pursuant to the acreage limitation in OAR 340-266-0040, and the requirements in OAR 340-266-0065. Such burning shall be authorized by the Department as field-by-field burning, and utilize a field specific burn plan, to ensure the smoke does not endanger public health and safety to the greatest extent practicable.

(13) "Extreme Hardship due to disease outbreak or insect infestation" means a case-by-case finding related to the approval of emergency burning, based the severity of an agronomic and economic impact on a grower that is caused by a disease outbreak or insect infestation, as determined by the Department, pursuant to OAR 340-266-0065. Agronomic impact includes, but is not limited to, the risk of disease spread, the extent of damage to the grass stand, loss in seed yield, quality, or purity, need for stand replacement if no burning occurs, availability and feasibility of alternatives, and effectiveness of burning in eradicating the problem. Economic impact includes, but is not limited to, loss in market value of the harvested seed, total fields owned by the grower in relation to the infected field or fields, and cost of alternative treatments compared to the cost of burning."

~~(1214)~~ "Field-by-Field Burning" means burning on a limited or restricted basis in which the amount, rate, and area authorized for burning is closely controlled and monitored. Included under this definition are ~~"training fires" and~~ experimental open field burning, emergency burning, and burning within priority areas.

~~(1315)~~ "Field Reference Code" means a unique four-part code which identifies a particular registered field for mapping purposes. The first part of the code shall indicate the grower registration (form) number, the second part the line number of the field as listed on the registration form, the third part the crop type, and the fourth part the size (acreage) of the field (e.g., a 35 acre perennial ~~bluegrass~~Chewings Fescue) field registered on Line 2 of registration form number 1953 would be 1953-2-P-~~BLCF~~-35).

(16) "Field Specific Burn Plan" means an individual burn plan designed for a field or acreage that has been approved for emergency burning, which identifies specific criteria, conditions, precautions, and requirements that need to be followed when burning in order to ensure the smoke does not endanger public health and safety.

~~(1417)~~ "Fire District" or "District" or "Fire Protection District" means a fire permit issuing agency.

~~(1518)~~ "Fire Permit" means a permit issued by a local fire permit issuing agency pursuant to ORS 477.515, ~~477.530~~, 476.380, or 478.960.

~~(1619)~~ "Fires-Out Time" means the time announced by the Department when all flames and major smoke sources associated with open field burning should be out and prohibition conditions are scheduled to be imposed.

~~(17) "Fire Safety Buffer Zone" shall have the same meaning as defined in the State Fire Marshal rules.~~

~~(1820)~~ "Fluffing" means an approved mechanical method of stirring or tedding crop residues for enhanced aeration and drying of the full fuel load, thereby improving the field's combustion characteristics.

~~(21) "Grower" means a person that cultivates perennial or annual grass seed or cereal grain.~~

~~(1922)~~ "Grower Allocation" means the amount of acreage sub-allocated annually to the grower registrant, based on the grower registrant's pro rata share of the maximum annual acreage limitation, representing the maximum amount for which burning permits may be issued, subject to daily authorization. Grower allocation is defined by the following identity: ~~{Formula not included. See ED. NOTE.}~~

~~Grower Allocation = (Maximum annual acreage limit) x ((Total acreage registered by the grower registrant) / (Total acreage registered in the valley))~~

~~(2023)~~ "Grower Registrant" means any person who registers acreage with the Department for purposes of open field burning, propane flaming, or receives a permit to stack ~~or pile~~ burn.

~~(24) "Identified Species" means a grass seed field consisting of Creeping Red Fescue, Chewings Fescue, or Highland Bentgrass, or as identified by the Director of Agriculture.~~

~~(2125)~~ "Marginal Conditions" means atmospheric conditions such that smoke and particulate matter escape into the upper atmosphere with some difficulty but not such that limited additional smoke and particulate matter would constitute a danger to the public health and safety.

~~(2226)~~ "Marginal Day" means a day on which marginal conditions exist.

~~(2327)~~ "Nephelometer" means an instrument for measuring ambient smoke concentrations.

~~(2428)~~ "Northerly Winds" means winds coming from directions from ~~297~~0° to 90° in the north part of the compass, averaged through the effective mixing height.

~~(2529)~~ "Open Field Burning" means burning of any ~~perennial or annual~~ grass seed or cereal grain crops, or associated residue, including steep terrain and species identified by the Director of

~~Agriculture, or any "emergency" or "experimental" burning, as identified in these rules, in such manner that combustion air and combustion products are not effectively controlled.~~

~~(26) "Open Burning" means the burning of agricultural, construction, demolition, domestic, or commercial waste or any other burning which occurs in such a manner that combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney pursuant to OAR 340-264-0030.~~

(2730) "Open Field Burning Permit" means a permit issued by the Department pursuant to ORS 468A.575.

(31) "Permit Agent" means the person under contract or otherwise authorized by the Department to administer registration of acreage, issue burn permits, collect fees, and keep records for open field burning, propane flaming, or stack burning within their permit jurisdictions pursuant to ORS 468A.550 et seq.

(2832) "Permit Issuing Agency" ~~or "Permit Agent"~~ means the county court or board of county commissioners, or fire chief or a rural fire protection district or other person authorized to issue fire permits pursuant to ORS 477.515, ~~477.530~~, 476.380, or 478.960.

(33) "Person" means, but is not limited to, individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, states and their agencies, and the Federal Government and its agencies.

(2934) "Preparatory Burning" means controlled burning of portions of selected ~~problem~~ fields for the specific purpose of reducing the fire hazard potential or other conditions which would otherwise inhibit rapid ignition burning when the field is subsequently open burned.

(3035) "Priority Acreage" means acreage located within a priority area.

(3136) "Priority Areas" means ~~the following certain~~ areas ~~of~~in the Willamette Valley where burning is restricted, such as near population centers, airports, Interstate I-5, and other highways, as specified in OAR 340-266-0075(1).÷

~~(a) Areas in or within three miles of the city limits of incorporated cities having populations of 10,000 or greater;~~

~~(b) Areas within one mile of airports servicing regularly scheduled airline flights;~~

~~(c) Areas in Lane County south of the line formed by U.S. Highway 126 and Oregon Highway 126;~~

~~(d) Areas in or within three miles of the city limits of the City of Lebanon;~~

~~(e) Areas on the west and east side of and within 1/4 mile of these highways: 99, 99E, and 99W. Areas on the south and north side of and within 1/4 mile of U.S. Highway 20 between Albany and~~

~~Lebanon, Oregon Highway 34 between Lebanon and Corvallis, Oregon Highway 228 from its junction south of Brownsville to its rail crossing at the community of Tulsa.~~

(37) "Problem Field" means a field where special precautions need to be taken by the grower because of potential fire hazard or proximity to a sensitive area, as specified in OAR 340-266-0075(4).

~~(3238)~~ "Prohibition Conditions" means conditions under which open field burning is not allowed except for individual burns specifically authorized by the Department pursuant to OAR 340-266-0070(2).

~~(3339)~~ "Propane Flaming" means the flame sanitization of a grass seed or cereal grain field using a mobile flamer device which meets the following design specifications and utilizes an auxiliary fuel such that combustion is nearly complete and emissions are significantly reduced:

(a) Flamer nozzles shall not be more than 15 inches apart;

(b) A heat deflecting hood is required and shall extend a minimum of three feet beyond the last row of nozzles.

~~(3440)~~ "Propane Flaming Permit" means a permit issued by the Department pursuant to ORS 468A.575 and consisting of a validation number and specifying the conditions and acreage specifically registered and allocated for propane flaming.

~~(3541)~~ "Quota" means an amount of acreage established by the Department for each fire district for use in authorizing daily burning limits in a manner to provide, as reasonably as practicable, an equitable opportunity for burning in each area.

~~(3642)~~ "Rapid Ignition Techniques" means a method of burning in which all sides of the field are ignited as rapidly as practicable in order to maximize plume rise. When using this method, little or no preparatory backfire burning shall be done.

~~(3743)~~ "Released Allocation" means that part of a grower's allocation, by registration form, that is unused and voluntarily released to the Department for first come-first serve dispersal to other grower registrants.

~~(3844)~~ "Residue" means straw, stubble, and screenings and associated crop material generated in the production of grass seed and cereal grain crops.

~~(3945)~~ "Responsible Person" means each person who is in ownership, control, or custody of the real property on which open field burning occurs, including any tenant thereof, or who is in ownership, control or custody of the material which is burned, or the grower registrant. Each person who causes or allows open field burning, propane flaming, or stack ~~or pile~~ burning to be maintained shall also be considered a responsible person.

(46) "Screenings" means organic waste materials resulting from the seed cleaning process of grass seed and cereal grain.

~~(4047)~~ "Small-Seeded Seed Crops Requiring Flame Sanitation" means small-seeded grass, legume, and vegetable crops, or other types approved by the Department, which are planted in early autumn, are grown specifically for seed production, and which require flame sanitation for proper cultivation. For purposes of this Division, clover and sugar beets are specifically included. Cereal grains, hairy vetch, or field peas are specifically not included.

~~(4148)~~ "Smoke Management" means a system for the daily or hourly control of open field burning, propane flaming, or stack-~~or pile~~ burning through authorization of the times, locations, amounts and other restrictions on burning, so as to provide for suitable atmospheric dispersion of smoke particulate and to minimize impact on the public.

~~(4249)~~ "Southerly Winds" means winds coming from directions from 90° to ~~297~~0° in the south part of the compass, averaged through the effective mixing height.

~~(4350)~~ "Stack Burning" means the open burning of bound, baled, collected, gathered, accumulated, piled or stacked straw residue from perennial or annual grass seed or cereal grain crops.

~~(4451)~~ "Stack Burning Permit" means a permit issued by the Department pursuant to ORS 468A.575 that identifies the responsible person, date of permit issuance, and specifies the acreage and location authorized for stack-~~or pile~~ burning.

(52) "State Fire Marshal Fire Safety Buffer Zone" means an area within 1/4 mile of Interstate I-5, and 1/8 mile of major highways, that is required to have a noncombustible ground surface, as specified in OAR 340-266-0075, and as defined in the State Fire Marshal rules in OAR 837 Division 110.

(53) "Steep Terrain" means a grass seed or cereal grain field defined by Revised Universal Soil Loss Equation (RUSLE) and percent slope, as identified by the Director of Agriculture.

~~(4554)~~ "Test Fires" means individual field burns specifically authorized by the Department for the purpose of determining or monitoring atmospheric dispersion conditions.

~~(4655)~~ "Training Fires" means individual field burns set by or for a public agency for the official purpose of training personnel in fire-fighting techniques.

~~(4756)~~ "Unusually High Evaporative Weather Conditions" means a combination of meteorological conditions following periods of rain which result in sufficiently high rates of evaporation, as determined by the Department, where fuel (residue) moisture content would be expected to approach about 12 percent or less.

~~(4857)~~ "Validation Number" is used interchangeably with "Burn Permit" and means:

(a) For open field burning a unique five-part number issued by the Department or its delegate identifying a specific field and acreage allowed to be open field burned and the date and time the permit was issued (e.g., a validation number issued August 26 at 2:30 p.m. for a 70-acre burn for a field registered on Line 2 of registration form number 1953 would be 1953-2-0826-1430-070);

(b) For propane flaming and stack ~~or pile~~ burning a unique five part alphanumerical, issued by the Department or its delegate, identifying a specific field and acreage allowed to be propane flamed or stack ~~or pile~~ burned, the date and time the permit was issued, and the burn type (e.g., a validation number issued on July 15 for a 100 acre field to be propane flamed registered on Line 4 of registration form 9999 would be 9999-4-0715-P-100.

(4958) "Ventilation Index (VI)" means a calculated value used as a criterion of atmospheric ventilation capabilities. The Ventilation Index as used in this Division is defined by the following identity: ~~[Formula not included. See ED. NOTE.]~~

~~VI = (Effective mixing height (feet))/1,000 x (Average wind speed through the effective mixing height (knots))~~

~~(59) "Wildfire" means an uncontrollable fire started due to a breakdown of equipment, an accident caused by human error or negligence, or any other cause, including an intentional act.~~

~~(5060) "Willamette Valley" means, for the purposes of these rules, the areas of Benton, Clackamas, Lane, Linn, Marion, Mult-nomah, Polk, Washington, and Yamhill cCounties, lying between the crest of the Coast Range and the crest of the Cascade Mountains, and includes the following:~~

~~(a) "South Valley", the areas of jurisdiction of all fire permit issuing agents or agencies in the Willamette Valley portions of the counties of Benton, Lane, or Linn;~~

~~(b) "North Valley", the areas of jurisdiction of all other fire permit issuing agents or agencies in the Willamette Valley.~~

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

~~[ED. NOTE: Copies of the Formulas referenced in this rule are available from the agency.]~~

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 29, f. 6-12-71, ef. 7-12-71; DEQ 93(Temp), f. & ef. 7-11-75 thru 11-28-75; DEQ 104, f. & ef. 12-26-75; DEQ 114, f. & ef. 6-4-76; DEQ 138, f. 6-30-77; DEQ 140(Temp), f. & ef. 7-27-77 thru 11-23-77; DEQ 6-1978, f. & ef. 4-18-78; DEQ 8-1978(Temp), f. & ef. 6-8-78 thru 10-5-78; DEQ 22-1978, f. & ef. 12-28-78; DEQ 24-1979(Temp), f. & ef. 7-5-79; DEQ 28-1979, f. & ef. 9-13-79; DEQ 30-1979, f. & ef. 9-27-79; DEQ 2-1980, f. & ef. 1-21-80; DEQ 12-1980, f. & ef. 4-21-80; DEQ 9-1981, f. & ef. 3-19-81; DEQ 5-1984, f. & ef. 3-7-84; DEQ 11-1987, f. & ef. 6-15-87; DEQ 20-1988(Temp), f. 8-12-88, cert. ef. 8-12-88 thru 2-2-89; DEQ 8-1989, f. & cert. ef. 6-7-89; DEQ 5-

1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0005

340-266-0040

General Requirements

- (1) No person shall cause or allow open field burning or propane flaming on any acreage unless said acreage has first been registered and mapped pursuant to OAR 340-266-0050(1), the registration fee has been paid, and the registration (permit application) has been approved by the Department.
- (2) No person shall cause or allow open field burning, propane flaming, or stack-~~or pile~~ burning without first obtaining and being able to readily demonstrate a valid burning permit and fire permit from the appropriate permit issuing agent pursuant to OAR 340-266-0050(2). One the specific day of and prior to open the field burning, propane flaming, or ~~pile-or~~ stack burning of any grass seed or cereal grain crop or associated residue the grower registrant shall obtain, in person or by telephone, a valid burning permit and fire permit from the appropriate permit issuing agent pursuant to 340-266-0050.
- (3) The Department may prohibit any person from registering acreage for open field burning or propane flaming and may deny burn permits for open field burning, propane flaming, and stack-~~and pile~~ burning until all delinquent registration fees, late fees, and burn permit fees from previous seasons are paid. The Department may also institute appropriate legal action to collect the delinquent fees.
- (4) No person shall open field burn cereal grain acreage unless that person first issues to the Department a signed statement, and then acts to insure, that said acreage will be planted in the following growing season to a small-seeded seed crop requiring flame sanitation for proper cultivation, as defined in OAR 340-266-0030(40).
- (5) No person shall cause or allow open field burning, propane flaming, or stack-~~or pile~~ burning which is contrary to the Department's announced burning schedule specifying the times, locations and amounts of burning permitted, or to any other provision announced or set forth by the Department or this Division.
- (6) Each responsible person open field burning or propane flaming shall have an operating radio receiver or other monitoring device approved by the Department, and shall directly monitor the Department's burn schedule announcements at all times while open field burning or propane flaming.
- (7) Each responsible person open field burning or propane flaming shall actively extinguish all flames and major smoke sources when prohibition conditions are imposed by the Department or when instructed to do so by an agent or employee of the Department.
- ~~(8) No person shall cause or allow open field burning or stack or pile burning within 1/4 mile of either side of any Interstate freeway within the Willamette Valley or within 1/8 mile of either side of~~

~~the designated roadways listed in OAR 837-110-0080(2)(c). In addition, no person shall cause or allow open field burning in any of the remaining area within a fire safety buffer zone unless a noncombustible ground surface has been provided between the field to be burned and the nearest edge of the roadway right-of-way as required by 837-110-0080.~~

~~(9) Each responsible person open field burning, propane flaming, or stack or pile burning within a priority area or fire safety buffer zone around a designated city, airport or highway shall refrain from burning and promptly extinguish any burning if it is likely that the resulting smoke would noticeably affect the designated city, airport or highway.~~

(108) Each responsible person open field burning shall make every reasonable effort to expedite and promote efficient burning and prevent excessive emissions of smoke by:

(a) Meeting all of the State Fire Marshal requirements specified in OAR 837-110-0040 through 837-110-0080;

(b) Ensuring field residues are evenly distributed, dry, and in good burning condition;

(c) Employing rapid ignition techniques on all acreage where there are no imminent fire hazards or public safety concerns.

(9) In the event of a "wildfire" and a grower is unable to comply with all of the requirements of this Division, the grower must:

(a) Immediately take action to stop, contain, and correct the problem.

(b) As soon as practicable notify the designated permit agent. If the permit agent is unavailable, the grower must contact the department.

(A) Notification must be by phone, fax, email, or in person, or other method as technology allows and is approved by the Department.

(B) If a grower is unable to contact his/her designated permit agent or the department, then a detailed message must be left with the Department and the permit agent explaining the problem, the solution, the field information, and grower information.

(110) Open field burning, propane flaming, or stack ~~or pile~~ burning in compliance with this Division does not exempt any person from any civil or criminal liability for consequences or damages resulting from such burning, nor does it exempt any person from complying with any other applicable law, ordinance, regulation, rule, permit, order or decree of the Commission or any other government entity having jurisdiction.

~~(12) Any revisions to the maximum acreage to be burned, allocation or permit issuing procedures, or any other substantive changes to this Division affecting open field burning, propane flaming, or stack~~

~~or pile burning for any year shall be made prior to June 1 of that year. In making such changes, the Commission shall consult with Oregon State University.~~

(~~1311~~) Open field burning shall be regulated in a manner consistent with the requirements of the Oregon Visibility Protection Plan for Class I Areas (Section 5.2 of the State of Oregon Clean Air Act Implementation Plan adopted under OAR 340-200-0040).

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 29, f. 6-12-71, ef. 7-12-71; DEQ 93(Temp), f. & ef. 7-11-75 thru 11-28-75; DEQ 104, f. & ef. 12-26-75; DEQ 114, f. 6-4-76; DEQ 138, f. 6-30-77; DEQ 140(Temp), f. & ef. 7-27-77 thru 11-23-77; DEQ 6-1978, f. & ef. 4-18-78; DEQ 8-1978(Temp), f. & ef. 6-8-78 thru 10-5-78; DEQ 22-1978, f. & ef. 12-28-78; DEQ 30-1979, f. & ef. 9-27-79; DEQ 2-1980, f. & ef. 1-21-80; DEQ 12-1980, f. & ef. 4-21-80; DEQ 9-1981, f. & ef. 3-19-81; DEQ 5-1984, f. & ef. 3-7-84; DEQ 11-1987, f. & ef. 6-15-87; DEQ 20-1988(Temp), f. 8-12-88, cert. ef. 8-12-88 thru 2-2-88; DEQ 8-1989, f. & cert. ef. 6-7-89; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0010

340-266-0050

Registration, Permits, Fees, Records

In administering a field burning smoke management program, the Department may contract with counties or fire districts or other responsible individual to administer registration of acreage, issuance of permits, collection of fees, and keeping of records for open field burning, propane flaming, or stack ~~or pile~~ burning within their permit jurisdictions. The Department shall pay said authority for these services in accordance with the payment schedule provided for in ORS 468A.615. Three-quarters of said payment shall be made prior to July 1 of each year and the remainder shall be paid within ten days after completion of the end of season reconciliation:

(1) Registration of acreage:

(a) On or before April 1 of each year, each grower intending to open burn or propane flame under this Division shall register the total acreage to be open burned or propane flamed. Said acreage shall be registered with the Department or its authorized permit agent on the registration forms provided. Candidate fields for open burning or propane flaming shall be listed on the registration form and shall also be delineated on specially provided registration map materials and identified using a unique field reference code. Each candidate field listed shall state if the field is located in a priority area, contains a critical nonburn area, is a problem field, or is being requested for emergency burning. Registration, listing of fields, and mapping shall be completed according to the established procedures of the Department. Fields to be registered for burning must be planted in crops that can be open burned or propane flamed in the same year they are registered, and must be owned or under the control of the

registrant. At the time of registration, a non-refundable registration fee of ~~\$24~~ shall be paid for each acre registered for open field burning and ~~\$12~~ shall be paid for each acre registered for propane flaming. The registration fees for open field burning and propane flaming shall be paid into separate designated accounts. A complete registration (permit application) shall consist of a fully executed registration form, map and fee. Acreage registered by April 1 may be issued a burn permit if:

(A) Allocation is available; and

(B) The initial registration fee account has a sufficient balance.

(b) Registration for stack burning will occur twice annually. Each grower intending to stack burn under this Division during the first stack burn period of February 5 through May 31, must register between January 2 through January 31.

(c) Each grower intending to stack burn under this Division during the second stack burn period of October 5 through December 31, must register between September 1 and September 30.

~~(bd)~~ Registration of open field burning and propane flaming acreage after April 1 of each year shall require the prior approval of the Department and an additional ~~\$12~~ per acre late registration fee. The late registration fee shall not be charged if the late registration is not due to the fault of the registrant or one under the registrant's control;

~~(ee)~~ Copies of all registration forms and fees shall be forwarded to the Department promptly by the permit agent. Registration map materials shall be made available to the Department at all times for inspection and reproduction;

~~(ef)~~ The Department shall act on any registration application within 60 days of receipt of a completed application. The Department may deny or revoke any registration application which is incomplete, false or contrary to state law or this Division;

~~(eg)~~ The grower registrant shall insure the information presented on the registration form and map is complete and accurate.

(2) Permits:

(a) Permits for open field burning, propane flaming, or stack ~~or pile~~ burning shall be issued by the Department, or its authorized permit agent, to the grower registrant in accordance with the established procedures of the Department, and the times, locations, amounts and other restrictions set forth by the Department or this Division;

(b) A fire permit from the ~~local~~ designated fire permit issuing agency is also required for all open burning pursuant to ORS 477.515, ~~477.530~~, 476.380, 478.960;

(c) A valid open field burning permit shall consist of:

(A) An open field burning permit issued by the Department which specifies the permit conditions in effect at all times while burning and which identifies the acreage specifically registered and annually allocated for burning;

(B) A validation number issued by the ~~local~~designated permit agent on the day of the burn identifying the specific acreage allowed for burning and the date and time the permit was issued.

(d) A valid propane flaming permit shall consist of:

(A) A propane flaming permit issued by the Department which specifies the permit conditions in effect at all times while flaming and which identifies the acreage specifically registered and annually allocated for propane flaming;

(B) A validation number issued by the ~~local~~designated permit agent identifying the specific acreage allowed for propane flaming and the date and time the permit was issued.

(e) A valid stack-~~or pile~~ burning permit shall consist of the name of the responsible person and date the permit was issued, and shall specify the acreage and location authorized;

(f) Each responsible person open field burning, propane flaming, or stack-~~or pile~~ burning shall pay a per acre burn fee within ten days of the date the permit was issued. The fee shall be:

(A) ~~\$8~~16 per acre sanitized by open field burning;

(B) ~~\$24~~ per acre sanitized by propane flaming;

~~(C)~~

~~For all acreage burned in stacks or piles:~~

~~(i) \$2 per acre from January 1, 1992 to December 31, 1997;~~

~~(ii) \$4 per acre burn fee in 1998;~~

~~(iii) \$6 per acre burn fee in 1999;~~

~~(iv) \$8 per acre burn fee in 2000; and~~

~~(v) (C) \$10 per acre burned in stacks. fee in 2001 and thereafter.~~

(D) For grass seed and cereal grain residue from previous seasons, broken bales, or fields where a portion of straw was removed using usual or standard baling methods, the acreage actually burned shall be estimated and the same per acre fee as imposed in paragraph (C) of this subsection shall be charged. The estimated acreage shall be rounded to the nearest whole acre.

(g) Burning permits shall at all times be limited by and subject to the burn schedule and other requirements or conditions announced or set forth by the Department;

(h) No person shall issue burning permits for open field burning, propane flaming, or stack-~~or pile~~ burning of:

(A) More acreage than the amount sub-allocated annually to the ~~District grower~~ by the Department pursuant to OAR 340-266-0060(2);

(B) Priority or fire safety buffer zone acreage located on the upwind side of any city, airport, Interstate freeway or highway within the same priority area or buffer zone.

(i) It is the responsibility of each ~~local~~ designated permit issuing agency to establish and implement a system for distributing open field burning, propane flaming, or stack-~~or pile~~ burning permits to individual grower registrants when burning is authorized, provided that such system is fair, orderly and consistent with state law, this Division and any other provisions set forth by the Department.

(3) Fees:

(a) Permit agents shall collect, properly document, and promptly forward all required registration, late registration fees, and burn fees to the Department;

(b) All fees shall be deposited in the State Treasury to the credit of the Department of Agriculture Service Fund ~~and shall be appropriated pursuant to ORS 468A.550 to 468A.620.~~

(4) Records:

(a) Permit agents shall at all times keep proper and accurate records of all transactions pertaining to registrations, permits, fees, allocations, and other matters specified by the Department. Such records shall be kept by the permit agent for a period of at least five years and made available for inspection by the appropriate authorities;

(b) Permit agents shall submit to the Department on specially provided forms weekly reports of all acreage burned in their permit jurisdictions. These reports shall cover the weekly period of Monday through Sunday, and shall be ~~mailed and post-marked~~ returned to the Department no later than the first working day of the following week.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.615

Hist.: DEQ 93(Temp), f. & ef. 7-11-75 thru 11-28-75; DEQ 104, f. & ef. 12-26-75; DEQ 114, f. 6-4-76; DEQ 138, f. & ef. 6-30-77; DEQ 140(Temp), f. & ef. 7-27-77 thru 11-23-77; DEQ 6-1978, f. & ef. 4-18-78; DEQ 8-1978(Temp), f. & ef. 6-8-78 thru 10-5-78; DEQ 2-1980, f. & ef. 1-21-80; DEQ

12-1980, f. & ef. 4-21-80; DEQ 9-1981, f. & ef. 3-19-81; DEQ 5-1984, f. & ef. 3-7-84; DEQ 20-1988(Temp), f. 8-12-88, cert. ef. 8-12-88 thru 2-2-89; DEQ 8-1989, f. & cert. ef. 6-7-89; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0012

340-266-0060
Acreage Limitations, Allocations

(1) Limitation of Acreage:

~~(a) Except for acreage and residue open field burned pursuant to OAR 340-266-0100 through 340-266-0130, the maximum acreage to be open field burned annually in the Willamette Valley under this Division shall not exceed 15,000 acres of steep terrain and "identified species" as defined in OAR 340-266-0030.~~

~~(A) 120,000 acres for 1994 and 1995;~~

~~(B) 100,000 acres for 1996 and 1997; and~~

~~(C) 40,000 acres for 1998 and thereafter.~~

~~(b) Notwithstanding the annual limitations, up to 25,000 acres of steep terrain and species identified by the Director of Agriculture may be open field burned or propane flamed annually and shall be considered outside the limitation;~~

~~(b) Steep terrain and identified species burning is prohibited in Benton and Lane Counties, and in Linn County, except for portions of northeast Linn County that are east of the North Santiam River and north of Jefferson-Scio Drive and Robinson Drive to the west boundary of the city of Scio and north of Highway 226, and portions of northeast Linn County that are east of Richardson Gap Road and north of Fish Hatchery Drive.~~

~~(c) The Department may by order permit emergency open field burning, propane flaming, or stack burning of up to 2,000 acres annually, in addition to the limitations on acreage specified in this section. Requirements for emergency open burning are specified in OAR 340-266-0065.~~

~~(d) The maximum acreage to be propane flamed annually in the Willamette Valley under this Division shall not exceed 500 acres for the years 2009, 2010, 2011 and 2012. For the year 2013 and thereafter, all propane flaming is prohibited.~~

~~(e) The maximum acreage to be stack burned annually in the Willamette Valley under this Division shall not exceed 1000 acres for the years 2009, 2010, 2011 and 2012. For the year 2013 and thereafter all stack burning is prohibited.~~

~~(ef)~~ Other limitations on acreage allowed to be open field burned are specified in OAR ~~340-266-0070(7), 340-266-0080(2),~~ 340-266-0090(1) and 340-266-0100(1);

~~(d) The maximum acreage to be propane flamed annually in the Willamette Valley under this Division shall not exceed 75,000 acres;~~

~~(e) Other limitations on acreage allowed to be propane flamed are specified in OAR 340-266-0120.~~

(2) Allocation of Acreage:

(a) In the event that total open burning and propane flaming registration as of April 1 is less than or equal to the maximum acreage allowed to be open field burned or propane flamed annually, pursuant to subsection (1)(a) and ~~(dc)~~ of this rule, the Department shall sub-allocate to each grower registrant and each district (subject to daily burn authorization) 100 percent of their respective registered acreage;

(b) In the event that total open burning and propane flaming registration as of April 1 exceeds the maximum acreage allowed to be open field burned or propane flamed annually, pursuant to subsection (1)(a) and (c) of this rule, the Department may sub-allocate to growers on a pro rata share basis not more than 100 percent of the maximum acreage limit, referred to as "grower allocation". ~~In addition, the Department shall sub-allocate to each respective fire district, its pro rata share of the maximum acreage limit based on acreage registered within the district, referred to as "district allocation";~~

~~(c) To ensure optimum permit utilization, the Department may adjust fire district allocations;~~

~~(dc)~~ Transfer of allocations for farm management purposes may be made within and between fire districts and between grower registrants on a one-in/one-out basis under the supervision of the Department. The Department may assist grower registrants by administering a reserve of released allocation for first come-first served utilization.

(d) In the event that total stack burning registration at the close of the first registration period of January 2 through January 31 is less than or equal to the maximum of 250 acres out of the 1000 acre annual allocation pursuant to subsection (1)(e) of this rule, for the first stack burn period of February 5 through May 31, the Department shall sub-allocate to each grower registrant (subject to daily burn authorization) 100 percent of their respective registered acreage.

(e) In the event that total stack burning registration at the close of the first registration period of January 2 through January 31 exceeds the maximum of 250 acres out of the 1000 acre annual allocation pursuant to subsection (1)(e) of this rule, for the first stack burn period of February 5 through May 31, the Department may sub-allocate to each grower registrant on a pro rata basis not more than 100 percent of the maximum acreage limit, referred to as "grower allocation." If any acreage remains unburned at the end of this first stack burn period, this acreage will be added to the maximum acreage allowed to be burned during the second burn period pursuant to subsections (2)(f)(g).

(f) In the event that total stack burning registration at the close of the second registration period of September 1 through September 30 is less than or equal to the maximum of 750 acres allowed to be burned for the second stack burn period of October 5 through December 31 pursuant to subsection (1)(e) of this rule, the Department shall sub-allocate to each grower registrant (subject to daily burn authorization) 100 percent of their respective registered acreage.

(g) In the event that total stack burning registration at the close of the second registration period of September 1 through September 30 exceeds the maximum of 750 acres out of the 1000 acre annual allocation pursuant to subsection (1)(e) of this rule, for the second stack burn period of October 5 through December 31, the Department may sub-allocate to each grower registrant on a pro rata basis not more than 100 percent of the maximum acreage limit, referred to as "grower allocation."

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.610

Hist.: DEQ 93(Temp), f. & ef. 7-11-75 thru 11-28-75; DEQ 104, f. & ef. 12-26-75; DEQ 114, f. & ef. 6-4-76; DEQ 138, f. & ef. 6-30-77; DEQ 140(Temp), f. & ef. 7-27-77 thru 11-23-77; DEQ 6-1978, f. & ef. 4-18-78; DEQ 8-1978(Temp), f. & ef. 6-8-78 thru 10-5-78; DEQ 22-1978, f. & ef. 12-28-78; DEQ 13-1979, f. & ef. 6-8-79; DEQ 30-1979, f. & ef. 9-27-79; DEQ 2-1980, f. & ef. 1-21-80; DEQ 12-1980, f. & ef. 4-21-80; DEQ 9-1981, f. & ef. 3-19-81; DEQ 5-1984, f. & ef. 3-7-84; DEQ 11-1987, f. & ef. 6-15-87; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0013

340-266-0065

Emergency Open Burning

In accordance with ORS 468A.610(11)(a), the Department may by order allow up to 2,000 acres each calendar year for emergency open burning, propane flaming or stack burning to address a disease outbreak or insect infestation on a grass seed or cereal grain field. A grower seeking emergency burning authorization must submit a petition to the Department requesting emergency burning in accordance with the dates specified in subsection (9), and shall include the information as provided in this rule.

(1) Such burning shall be limited to the minimum number of acres on the field to address the emergency, and in no case exceed the acreage approved for burning by the Department under these rules.

(2) In addition to the general requirements for burning in OAR 340-266-0040, any emergency burning approved under these rules shall be subject to special field-by-field authorization by the Department of Agriculture, and a field specific smoke management burn plan required in subsection (6), to protect public health and safety.

(3) Emergency burning shall be subject to the requirements in OAR 340-266-0050, including the registration and burn fee.

(4) Based on the submittal dates specified in subsection (9), a grower seeking emergency burning approval shall submit a petition to the Department containing the following documentation:

(a) A field burning registration form, in accordance with OAR 340-266-0050(1).

(b) Severity of the disease outbreak or insect infestation, the minimum number of acres being requested for burning to address the problem, and the type of burning to be used (open burning, propane flaming, or stack burning).

(A) Documentation shall include seed testing results from the most recent seed harvest, obtained from an independent seed lab operated by a registered seed technologist (RST), which shows the seed quality and purity results from the infested field or acreage, and how this is evidence of a major disease outbreak or insect infestation. Emphasis should be given to seed germination testing results, and whether the germination percentage is more than 10 percent under the required percentage established for that specific grass variety. Growers are encouraged to submit seed testing results and reference the Seed Standards established by Oregon Seed Certification Service at Oregon State University, as part of this documentation.

(B) Other documentation besides seed testing results may be submitted by the grower providing it also shows evidence of a major disease outbreak or insect infestation.

(C) Description of the extent of damage to the grass stand, whether stand replacement would be needed if no burning is conducted, and the extent to which burning is expected to remedy the disease outbreak or insect infestation. This shall include whether any alternatives to burning, such as crop rotation or chemical treatments, would be similar to or more effective in eradicating the problem.

(D) For the information noted above in paragraphs (A), (B) and (C), growers are required to include documentation from an extension agent, agronomist, or consultant.

(c) Description of how the severity of the disease outbreak or insect infestation affects the market value of the harvested seed and the extent of the financial or economic hardship this poses. This description shall include an estimate of the overall financial loss from the outbreak or infestation, in relation to total number of grass seed fields that are part of grower's farming operation, as a means of showing the extent of the financial impact, which shall be considered in the determination of extreme hardship.

(d) A field specific smoke management burn plan, as described in subsection (6) below.

(5) After receiving a petition for emergency burning, the Department may request additional information from the grower petitioner, in accordance with the provisions and conditions listed in subsection (4).

(6) Included in the emergency burning petition shall be a field specific burn plan, containing the information listed below. The information in subsection (a) below shall be provided primarily by the grower petitioner, in consultation with the Department of Agriculture. The information in subsections (b) and (c) shall be determined primarily by the Department of Agriculture, in consultation with the grower petitioner.

(a) Location of the field, and description of the potential risk to the public, associated with the burning of the field. This includes:

(A) Whether any burning restrictions or prohibitions apply to the field, as identified in OAR 340-266-0075, related to priority areas, critical non-burn areas, fire safety buffer zones, or problem fields.

(B) Any other unique factors in addition to (A) above, such as neighboring homes or residential areas within a 1/4 mile of the field, or any special events, community activities, sporting events, etc., that should be avoided on certain dates, that can be reasonably known in advance.

(b) Optimum meteorological conditions for burning the field, related to information provided in subsection (a). This includes the appropriate surface and transport winds, humidity, mixing height, and ventilation conditions.

(c) Any special field preparation (such as fluffing), ignition techniques, need for preparatory burning, or other burning related precautions and instructions.

(7) In making a determination to approve a petition, based on the authority specified in subsection (10), the Department shall approve all, part, or none of the acres requested for emergency burning, based on the following:

(a) The information submitted under subsections (4)(b) and (c).

(b) Review of the field specific burn plan, required in subsection (6), and the extent of the constraints associated with burning the field and likelihood that the field can be burned with the risk to the public minimized to the greatest extent practicable.

(c) Prior to approving any emergency burning petition, the Department shall post the field specific burn plan, and a summary of the emergency burning petition, on DEQ's website for a period of 7 days. Interested persons will be notified by the Department prior to or on the day of the posting. Comments can be submitted to the Department on the proposed burn plan during the 7 day period. Any comments received will be considered by the Department prior to acting on the emergency burning petition.

(d) Whether emergency burning petitions submitted by the dates in subsection (9) exceeds the specific allocation listed. In the event the total acres requested for emergency burning exceeds these allocations, the petitions shall be prioritized on a case-by-case basis, as part of the approval process.

(e) After evaluating all the information received pursuant to this rule concerning an emergency burning petition, the Department shall make a finding of whether an extreme hardship due to disease outbreak or insect infestation exists, and if so, whether it outweighs the dangers to public health and safety from emergency open burning, in accordance with ORS 468A.610(11)(a).

(8) Authorization for burning shall be provided on the day of the burn by the Department of Agriculture, as described in subsection (2).

(9) Petitions for emergency burning can be submitted at two different time periods during the year. The first is between March 1 and June 1. The second is between July 1 and September 1.

(a) Petitions submitted between March 1 and June 1 shall include the documentation specified in subsection (4), based primarily on evidence of a disease outbreak or insect infestation from the prior year seed harvest, and any other more recent evidence if available. These petitions shall also include an estimate of the affect on the upcoming seed harvest. These petitions will be limited to a 1,000 acre allocation, out of the annual 2,000 acre limit for emergency burning. After reviewing all petitions received by June 1, the Department shall notify each grower petitioner whether all, part, or none of the acres requested for emergency burning were approved.

(b) Petitions submitted between July 1 and September 1 shall include the documentation specified in subsection (4), based primarily on evidence of a disease outbreak or insect infestation from the most recent seed harvest. Prior year seed harvest information may be included, as well as other more recent evidence if available. These petitions shall be limited to a 1,000 acre allocation, out of the annual 2,000 acre limit for emergency burning. If any of the prior allocation in subsection (a) remains, it will be carried over to this allocation. Petitions submitted during this time period will receive an allocation on a first-come first-serve basis. However, petitions approved prior to August 15 will only allow a maximum of 200 acres per petition. After August 15, this limit will not apply, and the remainder of the allocation will be available on a first-come first-serve basis, providing any of the allocation remains. For each petition submitted during this time period, the Department shall notify each grower petitioner whether all, part, or none of the acres requested for emergency burning were approved.

(c) Any petitions not approved in subsection (a) due to limited allocation can be resubmitted on July 1 to be eligible to that allocation, subject to the same first-come-first serve allocation method.

(10) The Commission delegates to the Director the authority to permit emergency burning by order pursuant to and by the standards contained in ORS 468A.610(11)(a).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.610
Hist.: DEQ

340-266-0070
Daily Burning Authorization Criteria

As part of the Smoke Management Program provided for in ORS 468A.590, the Department shall set forth the types and extent of open field burning, propane flaming, and stack-~~and pile~~ burning to be allowed each day according to the provisions established in this section and this Division:

(1) During the active burning season and on an as needed basis, the Department shall announce the burning schedule over the burning radio network, or other communication technology method as approved by the Department, and operated specifically for this purpose. The schedule shall specify the times, locations, amounts and other restrictions in effect for open field burning, propane flaming, and stack-~~and pile~~ burning. The Department shall notify the State Fire Marshal of the burning schedule for dissemination to appropriate Willamette Valley agencies.

(2) Prohibition conditions:

(a) Prohibition conditions shall be in effect at all times unless specifically determined and announced otherwise by the Department;

(b) Under prohibition conditions, no permits shall be issued and no open field burning shall be conducted in any area except for individual burns specifically authorized by the Department on a limited extent basis. Such limited burning may include field-by-field burning, preparatory burning, or burning of test fires, except that:

(A) No open field burning shall be allowed:

(i) In any area subject to a ventilation index of less than 10.0;

(ii) In any area upwind, or in the immediate vicinity, of any area in which, based upon real-time monitoring, a violation of federal or state air quality standards is projected to occur.

(B) Only test-fire burning may be allowed:

(i) In any area subject to a ventilation index of between 10.0 and 15.0, inclusive, except for experimental burning specifically authorized by the Department pursuant to OAR 340-266-0100;

(ii) When relative humidity at the nearest reliable measuring station exceeds 50 percent under forecast northerly winds or 65 percent under forecast southerly winds.

(3) Marginal conditions:

(a) The Department shall announce that marginal conditions are in effect and open field burning is allowed when, in its best judgment and within the established limits of this Division, the prevailing atmospheric dispersion and burning conditions are suitable for satisfactory smoke dispersal with

minimal impact on the public, provided that the minimum conditions set forth in paragraphs (2)(b)(A) and (B) of this rule are satisfied;

(b) Under marginal conditions, permits may be issued and open field burning may be conducted in accordance with the times, locations, amounts, and other restrictions set forth by the Department and this Division.

(4) Hours of burning:

(a) Burning hours shall be limited to those specifically authorized by the Department each day and may be changed at any time when necessary to attain and maintain air quality;

(b) Burning hours may be reduced by the fire chief or his deputy, and burning may be prohibited by the State Fire Marshal, when necessary to prevent danger to life or property from fire, pursuant to ORS 478.960.

(5) Locations of burning:

(a) Locations of burning shall at all times be limited to those areas specifically authorized by the Department; except for areas where burning is restricted or prohibited, as specified in OAR 340-266-0075.~~that~~

~~(b) No priority or fire safety buffer zone acreage shall be burned upwind of any city, airport, Interstate freeway or highway within the same priority area or buffer zone;~~

~~(c) No south Valley priority acreage shall be burned upwind of the Eugene-Springfield non-attainment area.~~

(6) Amounts of burning:

(a) To provide for an efficient and equitable distribution of burning, daily authorizations of acreages shall be issued by the Department in terms of single or multiple fire district quotas. The Department shall establish quotas for each fire district and may adjust the quotas of any district when conditions in its judgment warrant such action;

(b) Unless otherwise specifically announced by the Department, a one quota limit shall be considered in effect for each district authorized for burning;

(c) The Department may issue more restrictive limitations on the amount, density or frequency of burning in any area or on the basis of crop type, when conditions in its judgment warrant such action.

(7) Limitations on burning based on air quality:

~~(a) The Department shall establish the minimum allowable effective mixing height required for burning based upon cumulative hours of smoke intrusion in the Eugene-Springfield area as follows;~~

Should smoke intrusions occur in the Eugene-Springfield area from the burning of identified species, steep terrain, propane flaming, or stack burning, pursuant to OAR 340-266-0060, that are in excess of the cumulative hours identified below, the minimum allowable effective mixing height for any additional open field burning for remainder of the year shall be as follows:

<u>Cumulative Hours in the Eugene-Springfield Area</u>	<u>Minimum Effective Mixing Height (feet)</u>
<u>0-14 hours</u>	<u>No minimum</u>
<u>15-19 hours</u>	<u>4,000</u>
<u>20-24 hours</u>	<u>4,500</u>
<u>25 and greater</u>	<u>5,500</u>

~~(b) Except as provided in paragraph (C) of this subsection, burning shall not be permitted whenever the effective mixing height is less than the minimum allowable height specified in **Table 1**, and by reference made a part of this Division; The effective mixing height restrictions in paragraph (a) of this subsection shall not apply to emergency burning or experimental burning, pursuant to OAR 340-266-0065 and OAR 340-266-0100.~~

~~(c) Notwithstanding the effective mixing height restrictions of paragraph (b) of this subsection, the Department may authorize burning of up to 1,000 acres total per day for the Willamette Valley, consistent with smoke management considerations and this Division.~~

(8) Limitations on burning based on rainfall:

(a) Open field burning and propane flaming shall be prohibited in any area for one drying day (up to a maximum of four consecutive drying days) for each 0.10 inch increment of rainfall received per day at the nearest reliable measuring station;

(b) The Department may waive the restrictions of subsection (a) of this section when dry fields are available as a result of special field preparation or condition, irregular rainfall patterns, or unusually high evaporative weather condition.

(9) Other discretionary provisions and restrictions:

(a) The Department may require special field preparations before burning, such as, but not limited to, mechanical fluffing of residues, when conditions in its judgment warrant such action;

(b) The Department may designate specified periods following permit issuance within which time active field ignition must be initiated and/or all flames must be actively extinguished before said permit is automatically rendered invalid;

(c) The Department may designate additional areas as priority areas when conditions in its judgment warrant such action.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

~~[ED. NOTE: The Table referenced in this rule is available from the agency.]~~

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.590

Hist.: DEQ 29, f. 6-12-71, ef. 7-12-71; DEQ 93(Temp), f. & ef. 7-11-75 thru 11-28-75; DEQ 104, f. & ef. 12-26-75; DEQ 114, f. & ef. 6-4-76; DEQ 138, f. 6-30-77; DEQ 6-1978, f. & ef. 4-18-78; DEQ 8-1978(Temp), f. & ef. 6-8-78 thru 10-5-78; DEQ 22-1978, f. & ef. 12-28-78; DEQ 24-1979(Temp), f. & ef. 7-5-79; DEQ 28-1979, f. & ef. 9-13-79; DEQ 30-1979, f. & ef. 9-27-79; DEQ 2-1980, f. & ef. 1-21-80; DEQ 12-1980, f. & ef. 4-21-80; DEQ 9-1981, f. & ef. 3-19-81; DEQ 5-1984, f. & ef. 3-7-84; DEQ 20-1988(Temp), f. 8-12-88, cert. ef. 8-12-88 thru 2-2-89; DEQ 8-1989, f. & cert. ef. 6-7-89; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0015

340-266-0075

Burning Restrictions and Prohibitions.

The following identifies smoke management requirements for Priority Areas, Critical Non-Burn Areas, Fire Marshal Buffer Zones, and Problem Fields, where burning is either restricted or prohibited, in order to further protect public health and safety from smoke impacts and potential fire hazards:

(1) Priority Areas:

(a) The following are priority areas where open field burning, propane flaming, and stack burning are restricted by the Department. No priority area acreage shall be burned upwind of any city, airport, Interstate freeway or highway within the same priority area. Any burning within a priority area is subject to field-by-field authorization by the Department.

(A) Within three miles of the city limits of incorporated cities having populations of 10,000 or greater;

(B) Within three miles of the city limits of the City of Lebanon;

(C) Within one mile of airports servicing regularly scheduled airline flights;

(D) Areas on the west and east side of and within 1/2 mile of Interstate I-5, from Portland to the Douglas/Lane County lines;

(E) Areas on the west and east side of and within 1/4 mile of these highways: 99, 99E, and 99W. Areas on the south and north side of and within 1/4 mile of U.S. Highway 20 between Albany and

Lebanon, Oregon Highway 34 between Lebanon and Corvallis, Oregon Highway 228 from its junction south of Brownsville to its rail crossing at the community of Tulsa.

(b) Parts of the Interstate I-5 and highway priority areas identified above are subject to the State Fire Marshal rules for fire safety buffer zones, which require a noncombustible area be established. See subsection (3) of these rules.

(c) Each responsible person open field burning, propane flaming, or stack burning within a priority area shall refrain from burning and promptly extinguish any burning if it is likely that the resulting smoke would noticeably affect the priority area.

(2) Critical Non-Burn Areas:

(a) Burning is prohibited in critical non-burn areas. No person shall cause or allow any open field burning, propane flaming, or stack burning in the following critical non-burn areas:

(A) Any part of a field that is underneath a power transmission line of 230kV rating or greater, extending 75 feet on either side of the center line of the power transmission line.

(B) Any part of a field within 500 feet of a hospital.

(C) Any part of a field within 500 feet of a school, when the school is in-session. A school shall be considered not in-session during the following time periods:

(i) During the regular summer closure period, ending 7 days prior to the first day of regular fall classes. The Department will determine the end of the regular summer closure period by reviewing each affected schools regularly published school-year calendar;

(ii) 2 hours after the time the school day is officially over. The official end of the school day will be determined by the Department as published in each affected schools regular school-day calendar.

(D) Any part of a field within 500 feet of any airport servicing regularly scheduled airline flights. In cases where an airport does not have regularly scheduled flights, field by field burning may be authorized by the Department, in accordance with the requirements in subsection (4) that apply to problem fields.

(b) It shall be the responsibility of the grower to ensure the critical non-burn area does not burn. It is recommended that the field stubble either be flail-chopped, mowed, or otherwise cut close to the ground, and the loose straw removed so that the field will not sustain an open fire. Application of water to the critical non-burn area to ensure there is no combustion is also recommended. Should any open fire occur, all flame and smoke sources shall be immediately and actively extinguished.

(c) Each responsible person conducting open field burning, propane flaming, or stack burning adjacent to a critical non-burn area shall take appropriate steps to ensure that the critical nonburn area remains unburned.

(d) Field by field burning may be authorized by the Department within 500 feet of a school that is not in-session, subject to the following restrictions:

(A) No burning is allowed upwind of the school;

(B) The responsible person burning the field makes a visual observation to first confirm that there are no children or other persons present on the school grounds.

(e) When burning next to a school or hospital critical non-burn area, or beyond 500 feet of a school that is not in-session, the Department shall take special precautions to ensure that prevailing winds do not cause smoke to impact the school or hospital.

(f) Any field that is intersected by a power transmission line of 230kV rating or greater shall be registered and burned as two separate fields, to minimize the potential of smoke to come into direct contact with the power transmission line.

(3) State Fire Marshal Safety Buffer Zones:

(a) State Fire Marshal Rules for fire safety buffer zones, as specified in OAR 837, Division 110, establish a 1/2 mile buffer zone for Interstate I-5 and the highways listed below in this subsection. No person shall cause or allow any open field burning, propane flaming, or stack burning in the following portions of the State Fire Marshal fire safety buffer zones:

(A) Within 1/4 mile of either side of Interstate I-5, from Portland to the Douglas/Lane County lines.

(B) Within 1/8 mile of either side of the designated roadways listed below, as specified in the State Fire Marshal Rules in OAR 837, Division 110:

(i) ORE 99 - The section from Junction City to Eugene;

(ii) ORE 99E - The sections from Oregon City to Salem and from Albany to Junction City;

(iii) ORE 99W - The entire section from Portland to Junction City;

(iv) US 20 - The section from Philomath to Lebanon;

(v) ORE 22 - The section from ORE 18 to Mehama;

(vi) US 26 - The section from ORE 47 interchange to Portland;

(vii) ORE 34 - The section from Corvallis to Lebanon.

(b) The 1/4 and 1/8 mile safety buffer zone distances identified above must be a noncombustible area, as defined in the State Fire Marshal Rules. For all requirements related to the State Fire Marshal Fire Safety Buffer Zones, see OAR 837, Division 110. Nothing in the Departments' rules regarding fire safety buffer zones replaces or substitutes for meeting all the requirements in the State Fire Marshal Rules.

(c) The area beyond the 1/4 and 1/8 mile noncombustible area in the fire safety buffer zone represents the area that is considered a priority area as described above in subsection (1)(a)(D) and (E). Burning in this part of the fire safety buffer zone is subject to the restrictions for priority areas in subsection (1) of these rules.

(4) Problem Fields:

(a) No problem fields shall be burned without first contacting the Department to determine what specific weather conditions and smoke management criteria need to be followed when burning the field, in order protect any school, hospital, airport, or other sensitive area, in proximity to the field.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.610

Hist.: DEQ

340-266-0080

Burning by Public Agencies (Training Fires)

In order to promote public safety through the training of firefighting personnel, ~~Open field burning on grass seed or cereal grain acreage by or for any public agency for official purposes, including the training of fire fighting personnel, may a fire department or rural fire protection district is be permitted by the Department on a prescheduled basis consistent with smoke management considerations and~~ subject to the following conditions:

(1) Such burning must be deemed necessary by the official local fire authority having jurisdiction, and must be conducted in a manner consistent with the primary its purpose of providing training to firefighting personnel, in accordance with ORS 468A.020.

(2) Such burning must be limited to the minimum number of acres and occasions reasonably needed to ensure adequate fire fighting personnel training, but in no case exceed 35 acres per fire or occasion.

(3) The responsible person shall comply with the provisions of OAR 340-266-0040 through 340-266-0060.

(3) Consultation with the Department of Agriculture by the fire department or rural fire protection district is required, in order to identify the appropriate atmospheric dispersion and burning conditions for optimum smoke dispersal, to protect the public from smoke impacts.

(4) No training fires shall be allowed on any acreage that is in a State Fire Marshal safety buffer zone, and any training fire being considered in a critical non-burn area, Priority Area, or Problem Field, shall comply with the requirements in subsection (3) of these rules.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.020

Hist.: DEQ 5-1984, f. & ef. 3-7-84; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 4-1993, f. & cert. ef. 5-11-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0031

340-266-0090

Preparatory Burning

The Department encourages the preparatory burning of portions of selected ~~problem~~ fields to reduce or eliminate potential fire hazards and safety problems and to expedite the subsequent burning of the field. Such burning shall be consistent with smoke management considerations and subject to the following conditions:

(1) Each responsible person shall limit the acres burned to the minimum necessary to eliminate potential fire hazards or safety problems but in no case exceed five acres for each burn unless specifically authorized by the Department.

(2) Each responsible person conducting preparatory burning shall employ backfiring burning techniques.

(3) Each responsible person conducting preparatory burning shall comply with the provisions of OAR 340-266-0040 through 340-266-0060 and OAR 837-110-0010 through 837-110-0090.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.600

Hist.: DEQ 11-1987, f. & ef. 6-15-87; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0033

340-266-0100

Experimental Burning

The Department may allow open field burning for demonstration or experimental purposes pursuant to the provisions of ORS 468A.620, consistent with smoke management con-siderations and subject to the following conditions:

(1) Acreage experimentally open field burned, propane flamed, or stack-~~or pile~~ burned shall not exceed 1,000 acres annually.

(2) Acreage experimentally burned shall not apply to the district allocation or to the maximum annual acreage limit specified in OAR 340-266-0060(1)(~~a~~)-~~or~~-(~~d~~).

(3) Such burning is exempt from the provisions of 340-266-0070 but must comply with the provisions of OAR 340-266-0040 and 340-266-0050, except that the Department may elect to waive all or part of the per acre open field burning or propane flaming fee.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.620

Hist.: DEQ 5-1984, f. & ef. 3-7-84; DEQ 11-1987, f. & ef. 6-15-87; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0035

340-266-0110

Emergency Burning Cessation

Pursuant to ORS 468A.610 and upon finding of ~~extreme~~ danger to public health or safety, the Commission may order temporary emergency cessation of all open field burning in any area of the Willamette Valley.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.610

Hist.: DEQ 5-1984, f. & ef. 3-7-84; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0040

340-266-0120

Propane Flaming

(1) The use of propane flammers, mobile field sanitizing devices, and other field sanitation methods specifically approved by the Department are subject to the following conditions:

(a) The field shall first be prepared as follows:

(A) Either the field must have previously been open burned and the appropriate fees paid; or

(B) The field stubble must be flail-chopped, mowed, or otherwise cut close to the ground and the loose straw removed so the remaining stubble will not sustain an open fire.

(b) Propane flaming operations shall comply with the following criteria:

(A) Unless otherwise specifically restricted by the Department propane flaming may be conducted only between the hours of 9 a.m. and sunset between June 1 and August 31 of each year and (9 a.m. to 1/2 hour before sunset between September 1 and October 14 of each year;

(B) Propane flammers shall be operated in overlapping strips, crosswise to the prevailing wind, beginning along the downwind edge of the field;

(C) No person shall cause or allow propane flaming which results in sustained open fire. Should sustained open fire create excessive smoke all flame and smoke sources shall be immediately and actively extinguished;

(D) No person shall cause or allow any propane flaming which results in visibility impairment on any Interstate highways or roadways specified in OAR 837-110-0080(1) and (2). Should visibility impairment occur, all flame and smoke sources shall be immediately and actively extinguished;

(E) The acreage must be registered and permits obtained pursuant to OAR 340-266-0050;

(F) No person shall cause or allow propane flaming when either the relative humidity at the nearest reliable measuring station exceeds 65 percent or the surface winds exceed 15 miles per hour;

(G) All regrowth over eight inches in height shall be mowed or cut close to the ground and removed.

(c) All propane flaming operations shall be conducted in accordance with the State Fire Marshal's safety requirements specified in OAR 837-110-0100 through 837-110-0155;

(d) No person shall cause or allow to be initiated or maintained any propane flaming or other mobile fire sanitation methods not certified by the Department on any day or at any time if the Department has determined and notified the State Fire Marshal that propane flaming is prohibited because of adverse meteorological or air quality conditions.

(2) The Department may issue restrictive limitations on the amount, density or frequency of propane flaming or other mobile fire sanitation methods in any area when meteorological conditions are unsuitable for adequate smoke dispersion, or deterioration of ambient air quality occurs.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.600

Hist.: DEQ 5-1984, f. & ef. 3-7-84; DEQ 11-1987, f. & ef. 6-15-87; DEQ 20-1988(Temp), f. 8-12-88, cert. ef. 8-12-88 thru 2-2-89; DEQ 8-1989, f. & cert. ef. 6-7-89; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0045

340-266-0130

Stack Burning

The open burning of piled or stacked residue from perennial or annual grass seed or cereal grain crops used for seed production is allowed subject to the following conditions:

- (1) No person shall cause or allow to be initiated or maintained any stack-~~or pile~~ burning on any day or at any time if the Department has notified the State Fire Marshal that such burning is prohibited because of meteorological or air quality conditions.
- (2) No person shall cause or allow stack-~~or pile~~ burning of any grass seed or cereal grain residue unless said residue is dry and free of all other combustible and non-combustible material.
- (3) Each responsible person shall make every reasonable effort to promote efficient burning, minimize smoke emissions, and extinguish any stack burning which is in violation of any rule of the Commission.
- (4) No stack-~~or pile~~ burning shall be conducted within any State Fire Marshal buffer zone "non-combustible ground surface" area (e.g., within 1/4 mile of Interstate I-5, or 1/8 mile of any designated roadway), as specified in OAR 837-110-0080.
- (5) The acreage must be registered and permitted pursuant to OAR 340-266-0050.
- (6) Unless otherwise specifically agreed by the parties, after the straw is removed from the fields of the grower, the responsibility for the further disposition of the straw, including burning or disposal, and payment of the appropriate fees, shall be upon the person who bales, removes, controls, or is in possession of the straw.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.600

Hist.: DEQ 11-1987, f. & ef. 6-15-88; DEQ 8-1989, f. & cert. ef. 6-7-89; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0055.

340-266-0140

Burning Fees Outside Willamette Valley

In accordance with ORS 468A.615(1)(b), each person open field burning perennial or annual grass seed crops in counties outside the Willamette Valley, shall pay the Department \$8.00 for each acre burned.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.615

Hist.: DEQ

Note: All revisions to the proposed rules are indicated in redline/strikeout. Substantive changes in response to public comments are highlighted in the **shaded** text.

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 266

FIELD BURNING RULES (WILLAMETTE VALLEY)

340-266-0010

Introduction

(1) ~~Except for the fee in OAR 340-266-0140, This~~ Division applies to the open field burning, propane flaming, and stack ~~and pile~~ burning of all perennial and annual grass seed and cereal grain crops, and associated residue within Multnomah, Washington, Clackamas, Marion, Polk, Yamhill, Linn, Benton and Lane Counties, herein referred to as the Willamette Valley. It also includes rules pertaining to fees for open field burning of perennial and annual grass seed crops in counties outside the Willamette Valley. ~~The open burning of all other agricultural waste material, including sanitizing perennial and annual grass seed crops by open burning in counties outside the Willamette Valley, (referred to as "fourth priority agricultural burning") is governed by OAR Chapter 340, Division 264, Rules for Open Burning.~~ Enforcement procedure and civil penalties for open field burning, propane flaming, and stack ~~and pile~~ burning ~~can be found~~ are established in OAR Chapter 603, Division 077 and Chapter 340, Division 12.

(2) Organization of rules:

(a) OAR 340-266-0020 is the policy statement of the Environmental Quality Commission setting forth the goals of this Division;

(b) OAR 340-266-0030 contains definitions of terms which have specialized meanings within the context of this Division;

(c) OAR 340-266-0040 lists general provisions and requirements pertaining to all open field burning, propane flaming, and stack ~~and pile~~ burning with particular emphasis on the duties and responsibilities of the grower registrant;

(d) OAR 340-266-0050 lists procedures and requirements for registration of acreage, issuance of permits, collection of fees, and keeping of records, with particular emphasis on the duties and responsibilities of the local permit issuing agencies;

(e) OAR 340-266-0060 establishes acreage limits and methods of determining acreage allocations;

(f) OAR 340-266-0065 establishes special provisions pertaining to “emergency open burning”.

(~~fg~~) OAR 340-266-0070 establishes criteria for authorization of open field burning, propane flaming, and stack ~~and pile~~ burning pursuant to the administration of a daily smoke management control program;

(h) OAR 340-266-0075 establishes special provisions pertaining to areas where field burning is either prohibited or restricted.

(~~gi~~) OAR 340-266-0080 establishes special provisions pertaining to field burning by public agencies for official purposes, such as "training fires";

(~~hj~~) OAR 340-266-0090 establishes special provisions pertaining to "preparatory burning";

(~~ik~~) OAR 340-266-0100 establishes special provisions pertaining to open field burning for experimental purposes;

(~~jl~~) OAR 340-166-0110 establishes special provisions ~~and procedures~~ pertaining to emergency cessation of burning;

(~~km~~) OAR 340-266-0120 establishes special provisions pertaining to propane flaming;

(~~lo~~) OAR 340-266-0130 establishes special provisions pertaining to "stack ~~and piling~~ burning".

(p) OAR 340-266-0140 contains a requirement for fees for open field burning in counties outside of the Willamette Valley.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 5-1984, f. & ef. 3-7-84; DEQ 12-1984, f. & ef. 7-13-84; DEQ 11-1987, f. & ef. 6-15-87; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0001

340-266-0020 Policy

In the interest of public health and welfare, it is the declared public policy of the State of Oregon to reduce the practice of open field burning while developing and providing alternative methods of field sanitation and alternative methods of utilizing and marketing grass seed and cereal grain straw residues and to control, reduce, and prevent air pollution from open field burning, propane flaming,

and stack ~~and pile~~ burning by smoke management. In developing and carrying out a smoke management control program it is the policy of the Environmental Quality Commission:

(1) To ~~allow~~ **provide for a maximum level of field burning based on the limits specified in state law while protecting public health and welfare with a minimum level of smoke impact on the public,** recognizing:

(a) The importance of flexibility and judgment in the daily decision-making process, within established and necessary limits;

(b) The need for operational efficiency within and between each organizational level;

(c) The need for effective compliance with all regulations and restrictions.

(2) To study, develop and encourage the use of reasonable and economically feasible alternatives to the practice of open field burning.

(3) To increase the degree of public safety by preventing unwanted wild fires and smoke from open field burning, propane flaming, and stack burning near highways and freeways within the State of Oregon. The Environmental Quality Commission hereby adopts by reference, as rules of the Environmental Quality Commission, OAR 837-110-01~~4005~~ through 837-110-01~~6055~~, the rules of the State Fire Marshal filed with the Secretary of State on ~~November 13, 2009~~ February 7, 1994. These rules shall apply to that area west of the Cascade Range and south to the Douglas/Lane County lines.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 5-1984, f. & ef. 3-7-84; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0003

340-266-0030

Definitions

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

(1) "Actively Extinguish" means the direct application of water or other fire retardant to an open field fire.

~~(2) "Approved Alternative Method(s)" means any method approved by the Department to be a satisfactory alternative field sanitation method to open field burning.~~

~~(3) "Approved Alternative Facilities" means any land, structure, building, installation, excavation, machinery, equipment, or device approved by the Department for use in conjunction with an approved alternative method.~~

(2) "Burning Permit" or "Burn Permit" or "Permit" means a permit issued by the Department pursuant to ORS 468A.575.

~~(43) "Candidate Fields" means all grass seed or cereal grain fields being considered for open field burning or propane flaming.~~

~~(54) "Commission" means the Environmental Quality Commission.~~

(5) "Critical Non-Burn Area" means an area in a grass seed or cereal grain field where burning is prohibited, such as underneath power transmission lines, or near a school, airport, or hospital, pursuant to OAR 340-266-0075. This prohibition may be permanent or for a limited period of time, where provided in these rules.

~~(6) "Cumulative Hours of Smoke Intrusion in the Eugene-Springfield Area" means the average of the totals of cumulative hours of smoke intrusion recorded for the Eugene site and the Springfield site, where it has been determined by. Provided the Department determines that open field burning, propane flaming, or stack burning was a significant contributor to the smoke intrusion:~~

~~(a) The Department shall record one hour of intrusion for each hour the nephelometer hourly reading exceeds a background level by 1.8×10^{-4} b-scat units or more but less than the applicable value in subsection (b) or (e) of this section;~~

~~(b) Between June 16 and September 14 of each year, The Department shall record two hours of smoke intrusion shall be recorded for each hour the nephelometer hourly reading exceeds a background level by 5.0×10^4 b-scat units;~~

~~(c) Between September 15 and June 15 of each year, two hours of intrusion shall be recorded for each hour the nephelometer hourly reading exceeds a background level by 4.0×10^4 b-scat units;~~

~~(d) The background level shall be the average of the three hourly readings immediately prior to the intrusion.~~

(7) "Department" means the Oregon Department of Agriculture Environmental Quality, except for OAR 340-266-0065, where this means the Department of Environmental Quality. Under ORS 468A.575, the Department of Environmental Quality may enter into contracts with the Oregon Department of Agriculture or other agencies to carry out the purposes set forth in these rules to the extent permitted by law.

(8) "Director" means the Director of the Department of Environmental Quality or delegated employee representative pursuant to ORS 468.045(3).

(9) "Director of Agriculture" means the Director of the Oregon Department of Agriculture.

~~(9) "District Allocation" means the total amount of acreage sub-allocated annually to the fire district, based on the district's pro-rata share of the maximum annual acreage limitation, representing the maximum amount for which burning permits may be issued within the district, subject to daily authorization. District allocation is defined by the following identity: [Formula not included. See ED-NOTE.]~~

(10) "Drying Day" means a 24-hour period during which the relative humidity reached a minimum less than 50 percent and no rainfall was recorded at the nearest reliable measuring site.

(11) "Effective Mixing Height" means either the actual height of plume rise as determined by ~~aircraft measurement field observation~~ or the calculated or estimated mixing height as determined by the Department, ~~whichever is greater.~~

(12) "Emergency Open Burning" means the open burning, propane flaming, or stack burning of a grass seed or cereal grain field infested with a disease or pest, where an extreme hardship exists due to a disease outbreak or insect infestation that outweighs the dangers to public health and safety from the burning, pursuant to the acreage limitation in OAR 340-266-0040, and the requirements in OAR 340-266-0065. Such burning shall be authorized by the Department as field-by-field burning, and utilize a field specific burn plan, to ensure the smoke does not endanger public health and safety to the greatest extent practicable.

(13) "Extreme Hardship due to disease outbreak or insect infestation" means a case-by-case finding related to the approval of emergency burning, based the severity of an agronomic and economic impact on a grower that is caused by a disease outbreak or insect infestation, as determined by the Department, pursuant to OAR 340-266-0065. Agronomic impact includes, but is not limited to, the risk of disease spread, the extent of damage to the grass stand, loss in seed yield, quality, or purity, need for stand replacement if no burning occurs, availability and feasibility of alternatives, and effectiveness of burning in eradicating the problem. Economic impact includes, but is not limited to, loss in market value of the harvested seed, total fields owned by the grower in relation to the infected field or fields, and cost of alternative treatments compared to the cost of burning."

~~(1214)~~ "Field-by-Field Burning" means burning on a limited or restricted basis in which the amount, rate, and area authorized for burning is closely controlled and monitored. Included under this definition are ~~"training fires"~~ and experimental open field burning, emergency burning, and burning within priority areas.

~~(1315)~~ "Field Reference Code" means a unique four-part code which identifies a particular registered field for mapping purposes. The first part of the code shall indicate the grower registration (form) number, the second part the line number of the field as listed on the registration form, the third part the crop type, and the fourth part the size (acreage) of the field (e.g., a 35 acre perennial (bluegrassChewings Fescue) field registered on Line 2 of registration form number 1953 would be 1953-2-P-BLCF-35).

(16) "Field Specific Burn Plan" means an individual burn plan designed for a field or acreage that has been approved for emergency burning, which identifies specific criteria, conditions, precautions, and requirements that need to be followed when burning in order to ensure the smoke does not endanger public health and safety.

~~(1417)~~ "Fire District" or "District" or "Fire Protection District" means a fire permit issuing agency.

~~(1518)~~ "Fire Permit" means a permit issued by a local fire permit issuing agency pursuant to ORS 477.515, ~~477.530~~, 476.380, or 478.960.

~~(1619)~~ "Fires-Out Time" means the time announced by the Department when all flames and major smoke sources associated with open field burning should be out and prohibition conditions are scheduled to be imposed.

~~(17) "Fire Safety Buffer Zone" shall have the same meaning as defined in the State Fire Marshal rules.~~

~~(1820)~~ "Fluffing" means an approved mechanical method of stirring or tedding crop residues for enhanced aeration and drying of the full fuel load, thereby improving the field's combustion characteristics.

(21) "Grower" means a person that cultivates perennial or annual grass seed or cereal grain.

~~(1922)~~ "Grower Allocation" means the amount of acreage sub-allocated annually to the grower registrant, based on the grower registrant's pro rata share of the maximum annual acreage limitation, representing the maximum amount for which burning permits may be issued, subject to daily authorization. Grower allocation is defined by the following identity: ~~{Formula not included. See ED-NOTE.}~~

Grower Allocation = (Maximum annual acreage limit) x ((Total acreage registered by the grower registrant) / (Total acreage registered in the valley))

~~(2023)~~ "Grower Registrant" means any person who registers acreage with the Department for purposes of open field burning, propane flaming, or receives a permit to stack ~~or pile~~ burn.

(24) "Identified Species" means a grass seed field consisting of Creeping Red Fescue, Chewings Fescue, or Highland Bentgrass, or as identified by the Director of Agriculture.

~~(2125)~~ "Marginal Conditions" means atmospheric conditions such that smoke and particulate matter escape into the upper atmosphere with some difficulty but not such that limited additional smoke and particulate matter would constitute a danger to the public health and safety.

~~(2226)~~ "Marginal Day" means a day on which marginal conditions exist.

~~(2327)~~ "Nephelometer" means an instrument for measuring ambient smoke concentrations.

~~(2428)~~ "Northerly Winds" means winds coming from directions from ~~29~~70° to 90° in the north part of the compass, averaged through the effective mixing height.

~~(2529)~~ "Open Field Burning" means burning of any ~~perennial or annual~~ grass seed or cereal grain crops, or associated residue, including steep terrain and species identified by the Director of Agriculture, or any "emergency" or "experimental" burning, as identified in these rules.~~in such manner that combustion air and combustion products are not effectively controlled.~~

~~(26)~~ "Open Burning" means the burning of agricultural, construction, demolition, domestic, or commercial waste or any other burning which occurs in such a manner that combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney pursuant to OAR 340-264-0030.

~~(2730)~~ "Open Field Burning Permit" means a permit issued by the Department pursuant to ORS 468A.575.

~~(31)~~ "Permit Agent" means the person under contract or otherwise authorized by the Department to administer registration of acreage, issue burn permits, collect fees, and keep records for open field burning, propane flaming, or stack burning within their permit jurisdictions pursuant to ORS 468A.550 et seq.

~~(2832)~~ "Permit Issuing Agency" ~~or "Permit Agent"~~ means the county court or board of county commissioners, or fire chief or a rural fire protection district or other person authorized to issue fire permits pursuant to ORS 477.515, ~~477.530~~, 476.380, or 478.960.

~~(33)~~ "Person" means, but is not limited to, individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, states and their agencies, and the Federal Government and its agencies.

~~(2934)~~ "Preparatory Burning" means controlled burning of portions of selected ~~problem~~ fields for the specific purpose of reducing the fire hazard potential or other conditions which would otherwise inhibit rapid ignition burning when the field is subsequently open burned.

~~(3035)~~ "Priority Acreage" means acreage located within a priority area.

~~(3136)~~ "Priority Areas" means the following certain areas ofin the Willamette Valley where burning is restricted, such as near population centers, airports, Interstate I-5, and other highways, as specified in OAR 340-266-0075(1):

~~(a) Areas in or within three miles of the city limits of incorporated cities having populations of 10,000 or greater;~~

~~(b) Areas within one mile of airports servicing regularly scheduled airline flights;~~

~~(c) Areas in Lane County south of the line formed by U.S. Highway 126 and Oregon Highway 126;~~

~~(d) Areas in or within three miles of the city limits of the City of Lebanon;~~

~~(e) Areas on the west and east side of and within 1/4 mile of these highways: 99, 99E, and 99W. Areas on the south and north side of and within 1/4 mile of U.S. Highway 20 between Albany and Lebanon, Oregon Highway 34 between Lebanon and Corvallis, Oregon Highway 228 from its junction south of Brownsville to its rail crossing at the community of Tulsa.~~

(37) "Problem Field" means a field where special precautions need to be taken by the grower because of potential fire hazard or proximity to a sensitive area, as specified in OAR 340-266-0075(4).

~~(3238)~~ "Prohibition Conditions" means conditions under which open field burning is not allowed except for individual burns specifically authorized by the Department pursuant to OAR 340-266-0070(2).

~~(3339)~~ "Propane Flaming" means the flame sanitization of a grass seed or cereal grain field using a mobile flamer device which meets the following design specifications and utilizes an auxiliary fuel such that combustion is nearly complete and emissions are significantly reduced:

(a) Flamer nozzles shall not be more than 15 inches apart;

(b) A heat deflecting hood is required and shall extend a minimum of three feet beyond the last row of nozzles.

~~(3440)~~ "Propane Flaming Permit" means a permit issued by the Department pursuant to ORS 468A.575 and consisting of a validation number and specifying the conditions and acreage specifically registered and allocated for propane flaming.

~~(3541)~~ "Quota" means an amount of acreage established by the Department for each fire district for use in authorizing daily burning limits in a manner to provide, as reasonably as practicable, an equitable opportunity for burning in each area.

~~(3642)~~ "Rapid Ignition Techniques" means a method of burning in which all sides of the field are ignited as rapidly as practicable in order to maximize plume rise. When using this method, little or no preparatory backfire burning shall be done.

~~(3743)~~ "Released Allocation" means that part of a growers allocation, by registration form, that is unused and voluntarily released to the Department for first come-first serve dispersal to other grower registrants.

~~(3844)~~ "Residue" means straw, stubble, ~~and~~ screenings and associated crop material generated in the production of grass seed and cereal grain crops.

~~(3945)~~ "Responsible Person" means each person who is in ownership, control, or custody of the real property on which open field burning occurs, including any tenant thereof, or who is in ownership, control or custody of the material which is burned, or the grower registrant. Each person who causes

or allows open field burning, propane flaming, or stack-~~or pile~~ burning to be maintained shall also be considered a responsible person.

(46) "Screenings" means organic waste materials resulting from the seed cleaning process of grass seed and cereal grain.

~~(4047)~~ "Small-Seeded Seed Crops Requiring Flame Sanitation" means small-seeded grass, legume, and vegetable crops, or other types approved by the Department, which are planted in early autumn, are grown specifically for seed production, and which require flame sanitation for proper cultivation. For purposes of this Division, clover and sugar beets are specifically included. Cereal grains, hairy vetch, or field peas are specifically not included.

~~(4148)~~ "Smoke Management" means a system for the daily or hourly control of open field burning, propane flaming, or stack-~~or pile~~ burning through authorization of the times, locations, amounts and other restrictions on burning, so as to provide for suitable atmospheric dispersion of smoke particulate and to minimize impact on the public.

~~(4249)~~ "Southerly Winds" means winds coming from directions from 90° to ~~29~~70° in the south part of the compass, averaged through the effective mixing height.

~~(4350)~~ "Stack Burning" means the open burning of bound, baled, collected, gathered, accumulated, piled or stacked straw residue from perennial or annual grass seed or cereal grain crops.

~~(4451)~~ "Stack Burning Permit" means a permit issued by the Department pursuant to ORS 468A.575 that identifies the responsible person, date of permit issuance, and specifies the acreage and location authorized for stack-~~or pile~~ burning.

(52) "State Fire Marshal Fire Safety Buffer Zone" means an area within 1/4 mile of Interstate I-5, and 1/8 mile of major highways, that is required to have a noncombustible ground surface, as specified in OAR 340-266-0075, and as defined in the State Fire Marshal rules in OAR 837 Division 110.

(53) "Steep Terrain" means a grass seed or cereal grain field defined by Revised Universal Soil Loss Equation (RUSLE) and percent slope, as identified by the Director of Agriculture.

~~(4554)~~ "Test Fires" means individual field burns specifically authorized by the Department for the purpose of determining or monitoring atmospheric dispersion conditions.

~~(4655)~~ "Training Fires" means individual field burns set by or for a public agency for the official purpose of training personnel in fire-fighting techniques.

~~(4756)~~ "Unusually High Evaporative Weather Conditions" means a combination of meteorological conditions following periods of rain which result in sufficiently high rates of evaporation, as determined by the Department, where fuel (residue) moisture content would be expected to approach about 12 percent or less.

(4857) "Validation Number" is used interchangeably with "Burn Permit" and means:

(a) For open field burning a unique five-part number issued by the Department or its delegate identifying a specific field and acreage allowed to be open field burned and the date and time the permit was issued (e.g., a validation number issued August 26 at 2:30 p.m. for a 70-acre burn for a field registered on Line 2 of registration form number 1953 would be 1953-2-0826-1430-070);

(b) For propane flaming and stack-~~or pile~~ burning a unique five part alphanumerical, issued by the Department or its delegate, identifying a specific field and acreage allowed to be propane flamed or stack-~~or pile~~ burned, the date and time the permit was issued, and the burn type (e.g., a validation number issued on July 15 for a 100 acre field to be propane flamed registered on Line 4 of registration form 9999 would be 9999-4-0715-P-100.

(4958) "Ventilation Index (VI)" means a calculated value used as a criterion of atmospheric ventilation capabilities. The Ventilation Index as used in this Division is defined by the following identity: ~~[Formula not included. See ED. NOTE.]~~

VI = (Effective mixing height (feet))/1,000 x (Average wind speed through the effective mixing height (knots))

(59) "Wildfire" means an uncontrollable fire started due to a breakdown of equipment, an accident caused by human error or negligence, or any other cause, including an intentional act.

(5060) "Willamette Valley" means, for the purposes of these rules, the areas of Benton, Clackamas, Lane, Linn, Marion, Mult-nomah, Polk, Washington, and Yamhill cCounties, lying between the crest of the Coast Range and the crest of the Cascade Mountains, and includes the following:

(a) "South Valley", the areas of jurisdiction of all fire permit issuing agents or agencies in the Willamette Valley portions of the counties of Benton, Lane, or Linn;

(b) "North Valley", the areas of jurisdiction of all other fire permit issuing agents or agencies in the Willamette Valley.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

~~[ED. NOTE: Copies of the Formulas referenced in this rule are available from the agency.]~~

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 29, f. 6-12-71, ef. 7-12-71; DEQ 93(Temp), f. & ef. 7-11-75 thru 11-28-75; DEQ 104, f. & ef. 12-26-75; DEQ 114, f. & ef. 6-4-76; DEQ 138, f. 6-30-77; DEQ 140(Temp), f. & ef. 7-27-77 thru 11-23-77; DEQ 6-1978, f. & ef. 4-18-78; DEQ 8-1978(Temp), f. & ef. 6-8-78 thru 10-5-78; DEQ 22-1978, f. & ef. 12-28-78; DEQ 24-1979(Temp), f. & ef. 7-5-79; DEQ 28-1979, f. & ef. 9-13-79; DEQ 30-1979, f. & ef. 9-27-79; DEQ 2-1980, f. & ef. 1-21-80; DEQ 12-1980, f. & ef. 4-21-80;

DEQ 9-1981, f. & ef. 3-19-81; DEQ 5-1984, f. & ef. 3-7-84; DEQ 11-1987, f. & ef. 6-15-87; DEQ 20-1988(Temp), f. 8-12-88, cert. ef. 8-12-88 thru 2-2-89; DEQ 8-1989, f. & cert. ef. 6-7-89; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0005

340-266-0040

General Requirements

- (1) No person shall cause or allow open field burning or propane flaming on any acreage unless said acreage has first been registered and mapped pursuant to OAR 340-266-0050(1), the registration fee has been paid, and the registration (permit application) has been approved by the Department.
- (2) No person shall cause or allow open field burning, propane flaming, or stack-~~or pile~~ burning without first obtaining and being able to readily demonstrate a valid burning permit and fire permit from the appropriate permit issuing agent pursuant to OAR 340-266-0050(2). One the specific day of and prior to open the field burning, propane flaming, or ~~pile-or~~ stack burning of any grass seed or cereal grain crop or associated residue the grower registrant shall obtain, in person or by telephone, a valid burning permit and fire permit from the appropriate permit issuing agent pursuant to 340-266-0050.
- (3) The Department may prohibit any person from registering acreage for open field burning or propane flaming and may deny burn permits for open field burning, propane flaming, and stack-~~and pile~~ burning until all delinquent registration fees, late fees, and burn permit fees from previous seasons are paid. The Department may also institute appropriate legal action to collect the delinquent fees.
- (4) No person shall open field burn cereal grain acreage unless that person first issues to the Department a signed statement, and then acts to insure, that said acreage will be planted in the following growing season to a small-seeded seed crop requiring flame sanitation for proper cultivation, as defined in OAR 340-266-0030(40).
- (5) No person shall cause or allow open field burning, propane flaming, or stack-~~or pile~~ burning which is contrary to the Department's announced burning schedule specifying the times, locations and amounts of burning permitted, or to any other provision announced or set forth by the Department or this Division.
- (6) Each responsible person open field burning or propane flaming shall have an operating radio receiver **or other monitoring device approved by the Department,** and shall directly monitor the Department's burn schedule announcements at all times while open field burning or propane flaming.
- (7) Each responsible person open field burning or propane flaming shall actively extinguish all flames and major smoke sources when prohibition conditions are imposed by the Department or when instructed to do so by an agent or employee of the Department.

~~(8) No person shall cause or allow open field burning or stack or pile burning within 1/4 mile of either side of any Interstate freeway within the Willamette Valley or within 1/8 mile of either side of the designated roadways listed in OAR 837-110-0080(2)(c). In addition, no person shall cause or allow open field burning in any of the remaining area within a fire safety buffer zone unless a noncombustible ground surface has been provided between the field to be burned and the nearest edge of the roadway right of way as required by 837-110-0080.~~

~~(9) Each responsible person open field burning, propane flaming, or stack or pile burning within a priority area or fire safety buffer zone around a designated city, airport or highway shall refrain from burning and promptly extinguish any burning if it is likely that the resulting smoke would noticeably affect the designated city, airport or highway.~~

(108) Each responsible person open field burning shall make every reasonable effort to expedite and promote efficient burning and prevent excessive emissions of smoke by:

(a) Meeting all of the State Fire Marshal requirements specified in OAR 837-110-0040 through 837-110-0080;

(b) Ensuring field residues are evenly distributed, dry, and in good burning condition;

(c) Employing rapid ignition techniques on all acreage where there are no imminent fire hazards or public safety concerns.

(9) In the event of a “wildfire” and a grower is unable to comply with all of the requirements of this Division, the grower must:

(a) Immediately take action to stop, contain, and correct the problem.

(b) As soon as practicable notify the designated permit agent. If the permit agent is unavailable, the grower must contact the department.

(A) Notification must be by phone, fax, email, or in person, or other method as technology allows and is approved by the Department.

(B) If a grower is unable to contact his/her designated permit agent or the department, then a detailed message must be left with the Department and the permit agent explaining the problem, the solution, the field information, and grower information.

(110) Open field burning, propane flaming, or stack ~~or pile~~ burning in compliance with this Division does not exempt any person from any civil or criminal liability for consequences or damages resulting from such burning, nor does it exempt any person from complying with any other applicable law, ordinance, regulation, rule, permit, order or decree of the Commission or any other government entity having jurisdiction.

~~(12) Any revisions to the maximum acreage to be burned, allocation or permit issuing procedures, or any other substantive changes to this Division affecting open field burning, propane flaming, or stack or pile burning for any year shall be made prior to June 1 of that year. In making such changes, the Commission shall consult with Oregon State University.~~

(1311) Open field burning shall be regulated in a manner consistent with the requirements of the Oregon Visibility Protection Plan for Class I Areas (Section 5.2 of the State of Oregon Clean Air Act Implementation Plan adopted under OAR 340-200-0040).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.555

Hist.: DEQ 29, f. 6-12-71, ef. 7-12-71; DEQ 93(Temp), f. & ef. 7-11-75 thru 11-28-75; DEQ 104, f. & ef. 12-26-75; DEQ 114, f. 6-4-76; DEQ 138, f. 6-30-77; DEQ 140(Temp), f. & ef. 7-27-77 thru 11-23-77; DEQ 6-1978, f. & ef. 4-18-78; DEQ 8-1978(Temp), f. & ef. 6-8-78 thru 10-5-78; DEQ 22-1978, f. & ef. 12-28-78; DEQ 30-1979, f. & ef. 9-27-79; DEQ 2-1980, f. & ef. 1-21-80; DEQ 12-1980, f. & ef. 4-21-80; DEQ 9-1981, f. & ef. 3-19-81; DEQ 5-1984, f. & ef. 3-7-84; DEQ 11-1987, f. & ef. 6-15-87; DEQ 20-1988(Temp), f. 8-12-88, cert. ef. 8-12-88 thru 2-2-88; DEQ 8-1989, f. & cert. ef. 6-7-89; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0010

340-266-0050

Registration, Permits, Fees, Records

In administering a field burning smoke management program, the Department may contract with counties or fire districts or other responsible individual to administer registration of acreage, issuance of permits, collection of fees, and keeping of records for open field burning, propane flaming, or stack ~~or pile~~ burning within their permit jurisdictions. The Department shall pay said authority for these services in accordance with the payment schedule provided for in ORS 468A.615. Three-quarters of said payment shall be made prior to July 1 of each year and the remainder shall be paid within ten days after completion of the end of season reconciliation:

(1) Registration of acreage:

(a) On or before April 1 of each year, each grower intending to open burn or propane flame under this Division shall register the total acreage to be open burned or propane flamed. Said acreage shall be registered with the Department or its authorized permit agent on the registration forms provided. Candidate fields for open burning or propane flaming shall be listed on the registration form and shall also be delineated on specially provided registration map materials and identified using a unique field reference code. Each candidate field listed shall state if the field is located in a priority area, contains a critical nonburn area, is a problem field, or is being requested for emergency burning. Registration, listing of fields, and mapping shall be completed according to the established procedures of the

Department. Fields to be registered for burning must be planted in crops that can be open burned or propane flamed in the same year they are registered, and must be owned or under the control of the registrant. At the time of registration, a non-refundable registration fee of \$~~24~~ shall be paid for each acre registered for open field burning and \$~~12~~ shall be paid for each acre registered for propane flaming. The registration fees for open field burning and propane flaming shall be paid into separate designated accounts. A complete registration (permit application) shall consist of a fully executed registration form, map and fee. Acreage registered by April 1 may be issued a burn permit if:

(A) Allocation is available; and

(B) The initial registration fee account has a sufficient balance.

(b) Registration for stack burning will occur twice annually. Each grower intending to stack burn under this Division during the first stack burn period of February 5 through May 31, must register between January 2 through January 31.

(c) Each grower intending to stack burn under this Division during the second stack burn period of October 5 through December 31, must register between September 1 and September 30.

(~~bd~~) Registration of open field burning and propane flaming acreage after April 1 of each year shall require the prior approval of the Department and an additional \$~~12~~ per acre late registration fee. The late registration fee shall not be charged if the late registration is not due to the fault of the registrant or one under the registrant's control;

(~~ee~~) Copies of all registration forms and fees shall be forwarded to the Department promptly by the permit agent. Registration map materials shall be made available to the Department at all times for inspection and reproduction;

(~~df~~) The Department shall act on any registration application within 60 days of receipt of a completed application. The Department may deny or revoke any registration application which is incomplete, false or contrary to state law or this Division;

(~~eg~~) The grower registrant shall insure the information presented on the registration form and map is complete and accurate.

(2) Permits:

(a) Permits for open field burning, propane flaming, or stack-~~or pile~~ burning shall be issued by the Department, or its authorized permit agent, to the grower registrant in accordance with the established procedures of the Department, and the times, locations, amounts and other restrictions set forth by the Department or this Division;

(b) A fire permit from the ~~local~~designated fire permit issuing agency is also required for all open burning pursuant to ORS 477.515, ~~477.530~~, 476.380, 478.960;

(c) A valid open field burning permit shall consist of:

(A) An open field burning permit issued by the Department which specifies the permit conditions in effect at all times while burning and which identifies the acreage specifically registered and annually allocated for burning;

(B) A validation number issued by the ~~local~~designated permit agent on the day of the burn identifying the specific acreage allowed for burning and the date and time the permit was issued.

(d) A valid propane flaming permit shall consist of:

(A) A propane flaming permit issued by the Department which specifies the permit conditions in effect at all times while flaming and which identifies the acreage specifically registered and annually allocated for propane flaming;

(B) A validation number issued by the ~~local~~designated permit agent identifying the specific acreage allowed for propane flaming and the date and time the permit was issued.

(e) A valid stack-~~or pile~~ burning permit shall consist of the name of the responsible person and date the permit was issued, and shall specify the acreage and location authorized;

(f) Each responsible person open field burning, propane flaming, or stack-~~or pile~~ burning shall pay a per acre burn fee within ten days of the date the permit was issued. The fee shall be:

(A) ~~\$8~~16 per acre sanitized by open field burning;

(B) ~~\$2~~4 per acre sanitized by propane flaming;

~~(C)~~

~~For all acreage burned in stacks or piles:~~

~~(i) \$2 per acre from January 1, 1992 to December 31, 1997;~~

~~(ii) \$4 per acre burn fee in 1998;~~

~~(iii) \$6 per acre burn fee in 1999;~~

~~(iv) \$8 per acre burn fee in 2000; and~~

~~(v) (C) \$10 per acre burned in stacks. fee in 2001 and thereafter.~~

(D) For grass seed and cereal grain residue from previous seasons, broken bales, or fields where a portion of straw was removed using usual or standard baling methods, the acreage actually burned

shall be estimated and the same per acre fee as imposed in paragraph (C) of this subsection shall be charged. The estimated acreage shall be rounded to the nearest whole acre.

(g) Burning permits shall at all times be limited by and subject to the burn schedule and other requirements or conditions announced or set forth by the Department;

(h) No person shall issue burning permits for open field burning, propane flaming, or stack-~~or pile~~ burning of:

(A) More acreage than the amount sub-allocated annually to the ~~District~~ grower by the Department pursuant to OAR 340-266-0060(2);

(B) Priority or fire safety buffer zone acreage located on the upwind side of any city, airport, Interstate freeway or highway within the same priority area or buffer zone.

(i) It is the responsibility of each ~~local~~ designated permit issuing agency to establish and implement a system for distributing open field burning, propane flaming, or stack-~~or pile~~ burning permits to individual grower registrants when burning is authorized, provided that such system is fair, orderly and consistent with state law, this Division and any other provisions set forth by the Department.

(3) Fees:

(a) Permit agents shall collect, properly document, and promptly forward all required registration, late registration fees, and burn fees to the Department;

(b) All fees shall be deposited in the State Treasury to the credit of the Department of Agriculture Service Fund ~~and shall be appropriated pursuant to ORS 468A.550 to 468A.620.~~

(4) Records:

(a) Permit agents shall at all times keep proper and accurate records of all transactions pertaining to registrations, permits, fees, allocations, and other matters specified by the Department. Such records shall be kept by the permit agent for a period of at least five years and made available for inspection by the appropriate authorities;

(b) Permit agents shall submit to the Department on specially provided forms weekly reports of all acreage burned in their permit jurisdictions. These reports shall cover the weekly period of Monday through Sunday, and shall be ~~mailed and post-marked~~ returned to the Department no later than the first working day of the following week.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.615

Hist.: DEQ 93(Temp), f. & ef. 7-11-75 thru 11-28-75; DEQ 104, f. & ef. 12-26-75; DEQ 114, f. 6-4-76; DEQ 138, f. & ef. 6-30-77; DEQ 140(Temp), f. & ef. 7-27-77 thru 11-23-77; DEQ 6-1978, f. & ef. 4-18-78; DEQ 8-1978(Temp), f. & ef. 6-8-78 thru 10-5-78; DEQ 2-1980, f. & ef. 1-21-80; DEQ 12-1980, f. & ef. 4-21-80; DEQ 9-1981, f. & ef. 3-19-81; DEQ 5-1984, f. & ef. 3-7-84; DEQ 20-1988(Temp), f. 8-12-88, cert. ef. 8-12-88 thru 2-2-89; DEQ 8-1989, f. & cert. ef. 6-7-89; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0012

340-266-0060 **Acreage Limitations, Allocations**

(1) Limitation of Acreage:

~~(a) Except for acreage and residue open field burned pursuant to OAR 340-266-0100 through 340-266-0130, the maximum acreage to be open field burned annually in the Willamette Valley under this Division shall not exceed 15,000 acres of steep terrain and “identified species” as defined in OAR 340-266-0030.:~~

~~(A) 120,000 acres for 1994 and 1995;~~

~~(B) 100,000 acres for 1996 and 1997; and~~

~~(C) 40,000 acres for 1998 and thereafter.~~

~~(b) Notwithstanding the annual limitations, up to 25,000 acres of steep terrain and species identified by the Director of Agriculture may be open field burned or propane flamed annually and shall be considered outside the limitation;~~

~~(b) Steep terrain and identified species burning is prohibited in Benton and Lane Counties, and in Linn County, except for portions of northeast Linn County that are east of the North Santiam River and north of Jefferson-Scio Drive and Robinson Drive to the west boundary of the city of Scio and north of Highway 226, and portions of northeast Linn County that are east of Richardson Gap Road and north of Fish Hatchery Drive.~~

~~(c) The Department may by order permit emergency open field burning, propane flaming, or stack burning of up to 2,000 acres annually, in addition to the limitations on acreage specified in this section. Requirements for emergency open burning are specified in OAR 340-266-0065.~~

~~(d) The maximum acreage to be propane flamed annually in the Willamette Valley under this Division shall not exceed 500 acres for the years 2009, 2010, 2011 and 2012. For the year 2013 and thereafter, all propane flaming is prohibited.~~

(e) The maximum acreage to be stack burned annually in the Willamette Valley under this Division shall not exceed 1000 acres for the years 2009, 2010, 2011 and 2012. For the year 2013 and thereafter all stack burning is prohibited.

~~(ef) Other limitations on acreage allowed to be open field burned are specified in OAR 340-266-0070(7), 340-266-0080(2), 340-266-0090(1) and 340-266-0100(1);~~

~~(d) The maximum acreage to be propane flamed annually in the Willamette Valley under this Division shall not exceed 75,000 acres;~~

~~(e) Other limitations on acreage allowed to be propane flamed are specified in OAR 340-266-0120.~~

(2) Allocation of Acreage:

(a) In the event that total open burning and propane flaming registration as of April 1 is less than or equal to the maximum acreage allowed to be open field burned or propane flamed annually, pursuant to subsection (1)(a) and ~~(dc)~~ of this rule, the Department shall sub-allocate to each grower registrant and each district (subject to daily burn authorization) 100 percent of their respective registered acreage;

(b) In the event that total open burning and propane flaming registration as of April 1 exceeds the maximum acreage allowed to be open field burned or propane flamed annually, pursuant to subsection (1)(a) and (c) of this rule, the Department may sub-allocate to growers on a pro rata share basis not more than 100 percent of the maximum acreage limit, referred to as "grower allocation". ~~In addition, the Department shall sub-allocate to each respective fire district, its pro rata share of the maximum acreage limit based on acreage registered within the district, referred to as "district allocation";~~

~~(c) To ensure optimum permit utilization, the Department may adjust fire district allocations;~~

~~(dc)~~ Transfer of allocations for farm management purposes may be made within and between fire districts and between grower registrants on a one-in/one-out basis under the supervision of the Department. The Department may assist grower registrants by administering a reserve of released allocation for first come-first served utilization.

(d) In the event that total stack burning registration at the close of the first registration period of January 2 through January 31 is less than or equal to the maximum of 250 acres out of the 1000 acre annual allocation pursuant to subsection (1)(e) of this rule, for the first stack burn period of February 5 through May 31, the Department shall sub-allocate to each grower registrant (subject to daily burn authorization) 100 percent of their respective registered acreage.

(e) In the event that total stack burning registration at the close of the first registration period of January 2 through January 31 exceeds the maximum of 250 acres out of the 1000 acre annual allocation pursuant to subsection (1)(e) of this rule, for the first stack burn period of February 5 through May 31, the Department may sub-allocate to each grower registrant on a pro rata basis not

more than 100 percent of the maximum acreage limit, referred to as “grower allocation.” If any acreage remains unburned at the end of this first stack burn period, this acreage will be added to the maximum acreage allowed to be burned during the second burn period pursuant to subsections (2)(f)(g).

(f) In the event that total stack burning registration at the close of the second registration period of September 1 through September 30 is less than or equal to the maximum of 750 acres allowed to be burned for the second stack burn period of October 5 through December 31 pursuant to subsection (1)(e) of this rule, the Department shall sub-allocate to each grower registrant (subject to daily burn authorization) 100 percent of their respective registered acreage.

(g) In the event that total stack burning registration at the close of the second registration period of September 1 through September 30 exceeds the maximum of 750 acres out of the 1000 acre annual allocation pursuant to subsection (1)(e) of this rule, for the second stack burn period of October 5 through December 31, the Department may sub-allocate to each grower registrant on a pro rata basis not more than 100 percent of the maximum acreage limit, referred to as “grower allocation.”

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.610

Hist.: DEQ 93(Temp), f. & ef. 7-11-75 thru 11-28-75; DEQ 104, f. & ef. 12-26-75; DEQ 114, f. & ef. 6-4-76; DEQ 138, f. & ef. 6-30-77; DEQ 140(Temp), f. & ef. 7-27-77 thru 11-23-77; DEQ 6-1978, f. & ef. 4-18-78; DEQ 8-1978(Temp), f. & ef. 6-8-78 thru 10-5-78; DEQ 22-1978, f. & ef. 12-28-78; DEQ 13-1979, f. & ef. 6-8-79; DEQ 30-1979, f. & ef. 9-27-79; DEQ 2-1980, f. & ef. 1-21-80; DEQ 12-1980, f. & ef. 4-21-80; DEQ 9-1981, f. & ef. 3-19-81; DEQ 5-1984, f. & ef. 3-7-84; DEQ 11-1987, f. & ef. 6-15-87; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0013

340-266-0065

Emergency Open Burning

In accordance with ORS 468A.610(11)(a), the Department may by order allow up to 2,000 acres each calendar year for emergency open burning, propane flaming or stack burning to address a disease outbreak or insect infestation on a grass seed or cereal grain field. A grower seeking emergency burning authorization must submit a petition to the Department requesting emergency burning in accordance with the dates specified in subsection (9), and shall include the information as provided in this rule.

(1) Such burning shall be limited to the minimum number of acres on the field to address the emergency, and in no case exceed the acreage approved for burning by the Department under these rules.

(2) In addition to the general requirements for burning in OAR 340-266-0040, any emergency burning approved under these rules shall be subject to special field-by-field authorization by the Department of Agriculture, and a field specific smoke management burn plan required in subsection (6), to protect public health and safety.

(3) Emergency burning shall be subject to the requirements in OAR 340-266-0050, including the registration and burn fee.

(4) Based on the submittal dates specified in subsection (9), a grower seeking emergency burning approval shall submit a petition to the Department containing the following documentation:

(a) A field burning registration form, in accordance with OAR 340-266-0050(1).

(b) Severity of the disease outbreak or insect infestation, the minimum number of acres being requested for burning to address the problem, and the type of burning to be used (open burning, propane flaming, or stack burning).

(A) Documentation shall include seed testing results from the most recent seed harvest, obtained from an independent seed lab operated by a registered seed technologist (RST), which shows the seed quality and purity results from the infested field or acreage, and how this is evidence of a major disease outbreak or insect infestation. Emphasis should be given to seed germination testing results, and whether the germination percentage is more than 10 percent under the required percentage established for that specific grass variety. Growers are encouraged to submit seed testing results and reference the Seed Standards established by Oregon Seed Certification Service at Oregon State University, as part of this documentation.

(B) Other documentation besides seed testing results may be submitted by the grower providing it also shows evidence of a major disease outbreak or insect infestation.

(C) Description of the extent of damage to the grass stand, whether stand replacement would be needed if no burning is conducted, and the extent to which burning is expected to remedy the disease outbreak or insect infestation. This shall include whether any alternatives to burning, such as crop rotation or chemical treatments, would be similar to or more effective in eradicating the problem.

(D) For the information noted above in paragraphs (A), (B) and (C), growers are required to include documentation from an extension agent, agronomist, or consultant.

(c) Description of how the severity of the disease outbreak or insect infestation affects the market value of the harvested seed and the extent of the financial or economic hardship this poses. This description shall include an estimate of the overall financial loss from the outbreak or infestation, in relation to total number of grass seed fields that are part of grower's farming operation, as a means of showing the extent of the financial impact, which shall be considered in the determination of extreme hardship.

(d) A field specific smoke management burn plan, as described in subsection (6) below.

(5) After receiving a petition for emergency burning, the Department may request additional information from the grower petitioner, in accordance with the provisions and conditions listed in subsection (4).

(6) Included in the emergency burning petition shall be a field specific burn plan, containing the information listed below. The information in subsection (a) below shall be provided primarily by the grower petitioner, in consultation with the Department of Agriculture. The information in subsections (b) and (c) shall be determined primarily by the Department of Agriculture, in consultation with the grower petitioner.

(a) Location of the field, and description of the potential risk to the public, associated with the burning of the field. This includes:

(A) Whether any burning restrictions or prohibitions apply to the field, as identified in OAR 340-266-0075, related to priority areas, critical non-burn areas, fire safety buffer zones, or problem fields.

(B) Any other unique factors in addition to (A) above, such as neighboring homes or residential areas within a 1/4 mile of the field, or any special events, community activities, sporting events, etc., that should be avoided on certain dates, that can be reasonably known in advance.

(b) Optimum meteorological conditions for burning the field, related to information provided in subsection (a). This includes the appropriate surface and transport winds, humidity, mixing height, and ventilation conditions.

(c) Any special field preparation (such as fluffing), ignition techniques, need for preparatory burning, or other burning related precautions and instructions.

(7) In making a determination to approve a petition, based on the authority specified in subsection (10), the Department shall approve all, part, or none of the acres requested for emergency burning, based on the following:

(a) The information submitted under subsections (4)(b) and (c).

(b) Review of the field specific burn plan, required in subsection (6), and the extent of the constraints associated with burning the field and likelihood that the field can be burned with the risk to the public minimized to the greatest extent practicable.

(c) Prior to approving any emergency burning petition, the Department shall post the field specific burn plan, and a summary of the emergency burning petition, on DEQ's website for a period of 7 days. Interested persons will be notified by the Department prior to or on the day of the posting. Comments can be submitted to the Department on the proposed burn plan during the 7 day period. Any comments received will be considered by the Department prior to acting on the emergency burning petition.

(d) Whether emergency burning petitions submitted by the dates in subsection (9) exceeds the specific allocation listed. In the event the total acres requested for emergency burning exceeds these allocations, the petitions shall be prioritized on a case-by-case basis, as part of the approval process.

(e) After evaluating all the information received pursuant to this rule concerning an emergency burning petition, the Department shall make a finding of whether an extreme hardship due to disease outbreak or insect infestation exists, and if so, whether it outweighs the dangers to public health and safety from emergency open burning, in accordance with ORS 468A.610(11)(a).

(8) Authorization for burning shall be provided on the day of the burn by the Department of Agriculture, as described in subsection (2).

(9) Petitions for emergency burning can be submitted at two different time periods during the year. The first is between March 1 and June 1. The second is between July 1 and September 1.

(a) Petitions submitted between March 1 and June 1 shall include the documentation specified in subsection (4), based primarily on evidence of a disease outbreak or insect infestation from the prior year seed harvest, and any other more recent evidence if available. These petitions shall also include an estimate of the affect on the upcoming seed harvest. These petitions will be limited to a 1,000 acre allocation, out of the annual 2,000 acre limit for emergency burning. After reviewing all petitions received by June 1, the Department shall notify each grower petitioner whether all, part, or none of the acres requested for emergency burning were approved.

(b) Petitions submitted between July 1 and September 1 shall include the documentation specified in subsection (4), based primarily on evidence of a disease outbreak or insect infestation from the most recent seed harvest. Prior year seed harvest information may be included, as well as other more recent evidence if available. These petitions shall be limited to a 1,000 acre allocation, out of the annual 2,000 acre limit for emergency burning. If any of the prior allocation in subsection (a) remains, it will be carried over to this allocation. Petitions submitted during this time period will receive an allocation on a first-come first-serve basis. However, petitions approved prior to August 15 will only allow a maximum of 200 acres per petition. After August 15, this limit will not apply, and the remainder of the allocation will be available on a first-come first-serve basis, providing any of the allocation remains. For each petition submitted during this time period, the Department shall notify each grower petitioner whether all, part, or none of the acres requested for emergency burning were approved.

(c) Any petitions not approved in subsection (a) due to limited allocation can be resubmitted on July 1 to be eligible to that allocation, subject to the same first-come-first serve allocation method.

(10) The Commission delegates to the Director the authority to permit emergency burning by order pursuant to and by the standards contained in ORS 468A.610(11)(a).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.610
Hist.: DEQ

340-266-0070
Daily Burning Authorization Criteria

As part of the Smoke Management Program provided for in ORS 468A.590, the Department shall set forth the types and extent of open field burning, propane flaming, and stack-~~and pile~~ burning to be allowed each day according to the provisions established in this section and this Division:

(1) During the active burning season and on an as needed basis, the Department shall announce the burning schedule over the burning radio network, or other communication technology method as approved by the Department, and operated specifically for this purpose. The schedule shall specify the times, locations, amounts and other restrictions in effect for open field burning, propane flaming, and stack-~~and pile~~ burning. The Department shall notify the State Fire Marshal of the burning schedule for dissemination to appropriate Willamette Valley agencies.

(2) Prohibition conditions:

(a) Prohibition conditions shall be in effect at all times unless specifically determined and announced otherwise by the Department;

(b) Under prohibition conditions, no permits shall be issued and no open field burning shall be conducted in any area except for individual burns specifically authorized by the Department on a limited extent basis. Such limited burning may include field-by-field burning, preparatory burning, or burning of test fires, except that:

(A) No open field burning shall be allowed:

(i) In any area subject to a ventilation index of less than 10.0;

(ii) In any area upwind, or in the immediate vicinity, of any area in which, based upon real-time monitoring, a violation of federal or state air quality standards is projected to occur.

(B) Only test-fire burning may be allowed:

(i) In any area subject to a ventilation index of between 10.0 and 15.0, inclusive, except for experimental burning specifically authorized by the Department pursuant to OAR 340-266-0100;

(ii) When relative humidity at the nearest reliable measuring station exceeds 50 percent under forecast northerly winds or 65 percent under forecast southerly winds.

(3) Marginal conditions:

(a) The Department shall announce that marginal conditions are in effect and open field burning is allowed when, in its best judgment and within the established limits of this Division, the prevailing atmospheric dispersion and burning conditions are suitable for satisfactory smoke dispersal with minimal impact on the public, provided that the minimum conditions set forth in paragraphs (2)(b)(A) and (B) of this rule are satisfied;

(b) Under marginal conditions, permits may be issued and open field burning may be conducted in accordance with the times, locations, amounts, and other restrictions set forth by the Department and this Division.

(4) Hours of burning:

(a) Burning hours shall be limited to those specifically authorized by the Department each day and may be changed at any time when necessary to attain and maintain air quality;

(b) Burning hours may be reduced by the fire chief or his deputy, and burning may be prohibited by the State Fire Marshal, when necessary to prevent danger to life or property from fire, pursuant to ORS 478.960.

(5) Locations of burning:

(a) Locations of burning shall at all times be limited to those areas specifically authorized by the Department; except for areas where burning is restricted or prohibited, as specified in OAR 340-266-0075.~~that~~

~~(b) No priority or fire safety buffer zone acreage shall be burned upwind of any city, airport, Interstate freeway or highway within the same priority area or buffer zone;~~

~~(c) No south Valley priority acreage shall be burned upwind of the Eugene-Springfield non-attainment area.~~

(6) Amounts of burning:

(a) To provide for an efficient and equitable distribution of burning, daily authorizations of acreages shall be issued by the Department in terms of single or multiple fire district quotas. The Department shall establish quotas for each fire district and may adjust the quotas of any district when conditions in its judgment warrant such action;

(b) Unless otherwise specifically announced by the Department, a one quota limit shall be considered in effect for each district authorized for burning;

(c) The Department may issue more restrictive limitations on the amount, density or frequency of burning in any area or on the basis of crop type, when conditions in its judgment warrant such action.

(7) Limitations on burning based on air quality:

~~(a) The Department shall establish the minimum allowable effective mixing height required for burning based upon cumulative hours of smoke intrusion in the Eugene-Springfield area as follows; Should smoke intrusions occur in the Eugene-Springfield area from the burning of identified species, steep terrain, propane flaming, or stack burning, pursuant to OAR 340-266-0060, that are in excess of the cumulative hours identified below, the minimum allowable effective mixing height for any additional open field burning for remainder of the year shall be as follows:~~

<u>Cumulative Hours in the Eugene-Springfield Area</u>	<u>Minimum Effective Mixing Height (feet)</u>
<u>0-14 hours</u>	<u>No minimum</u>
<u>15-19 hours</u>	<u>4,000</u>
<u>20-24 hours</u>	<u>4,500</u>
<u>25 and greater</u>	<u>5,500</u>

~~(b) Except as provided in paragraph (C) of this subsection, burning shall not be permitted whenever the effective mixing height is less than the minimum allowable height specified in **Table 1**, and by reference made a part of this Division; The effective mixing height restrictions in paragraph (a) of this subsection shall not apply to emergency burning or experimental burning, pursuant to OAR 340-266-0065 and OAR 340-266-0100.~~

~~(c) Notwithstanding the effective mixing height restrictions of paragraph (b) of this subsection, the Department may authorize burning of up to 1,000 acres total per day for the Willamette Valley, consistent with smoke management considerations and this Division.~~

(8) Limitations on burning based on rainfall:

(a) Open field burning and propane flaming shall be prohibited in any area for one drying day (up to a maximum of four consecutive drying days) for each 0.10 inch increment of rainfall received per day at the nearest reliable measuring station;

(b) The Department may waive the restrictions of subsection (a) of this section when dry fields are available as a result of special field preparation or condition, irregular rainfall patterns, or unusually high evaporative weather condition.

(9) Other discretionary provisions and restrictions:

(a) The Department may require special field preparations before burning, such as, but not limited to, mechanical fluffing of residues, when conditions in its judgment warrant such action;

(b) The Department may designate specified periods following permit issuance within which time active field ignition must be initiated and/or all flames must be actively extinguished before said permit is automatically rendered invalid;

(c) The Department may designate additional areas as priority areas when conditions in its judgment warrant such action.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

~~[ED. NOTE: The Table referenced in this rule is available from the agency.]~~

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.590

Hist.: DEQ 29, f. 6-12-71, ef. 7-12-71; DEQ 93(Temp), f. & ef. 7-11-75 thru 11-28-75; DEQ 104, f. & ef. 12-26-75; DEQ 114, f. & ef. 6-4-76; DEQ 138, f. 6-30-77; DEQ 6-1978, f. & ef. 4-18-78; DEQ 8-1978(Temp), f. & ef. 6-8-78 thru 10-5-78; DEQ 22-1978, f. & ef. 12-28-78; DEQ 24-1979(Temp), f. & ef. 7-5-79; DEQ 28-1979, f. & ef. 9-13-79; DEQ 30-1979, f. & ef. 9-27-79; DEQ 2-1980, f. & ef. 1-21-80; DEQ 12-1980, f. & ef. 4-21-80; DEQ 9-1981, f. & ef. 3-19-81; DEQ 5-1984, f. & ef. 3-7-84; DEQ 20-1988(Temp), f. 8-12-88, cert. ef. 8-12-88 thru 2-2-89; DEQ 8-1989, f. & cert. ef. 6-7-89; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0015

340-266-0075

Burning Restrictions and Prohibitions.

The following identifies smoke management requirements for Priority Areas, Critical Non-Burn Areas, Fire Marshal Buffer Zones, and Problem Fields, where burning is either restricted or prohibited, in order to further protect public health and safety from smoke impacts and potential fire hazards:

(1) Priority Areas:

(a) The following are priority areas where open field burning, propane flaming, and stack burning are restricted by the Department. No priority area acreage shall be burned upwind of any city, airport, Interstate freeway or highway within the same priority area. Any burning within a priority area is subject to field-by-field authorization by the Department.

(A) Within three miles of the city limits of incorporated cities having populations of 10,000 or greater;

(B) Within three miles of the city limits of the City of Lebanon;

(C) Within one mile of airports servicing regularly scheduled airline flights;

(D) Areas on the west and east side of and within 1/2 mile of Interstate I-5, from Portland to the Douglas/Lane County lines;

(E) Areas on the west and east side of and within 1/4 mile of these highways: 99, 99E, and 99W. Areas on the south and north side of and within 1/4 mile of U.S. Highway 20 between Albany and

Lebanon, Oregon Highway 34 between Lebanon and Corvallis, Oregon Highway 228 from its junction south of Brownsville to its rail crossing at the community of Tulsa.

(b) Parts of the Interstate I-5 and highway priority areas identified above are subject to the State Fire Marshal rules for fire safety buffer zones, which require a noncombustible area be established. See subsection (3) of these rules.

(c) Each responsible person open field burning, propane flaming, or stack burning within a priority area shall refrain from burning and promptly extinguish any burning if it is likely that the resulting smoke would noticeably affect the priority area.

(2) Critical Non-Burn Areas:

(a) Burning is prohibited in critical non-burn areas. No person shall cause or allow any open field burning, propane flaming, or stack burning in the following critical non-burn areas:

(A) Any part of a field that is underneath a power transmission line of 230kV rating or greater, extending 75 feet on either side of the center line of the power transmission line.

(B) Any part of a field within 500 feet of a hospital.

(C) Any part of a field within 500 feet of a school, when the school is in-session. A school shall be considered not in-session during the following time periods:

(i) During the regular summer closure period, ending 7 days prior to the first day of regular fall classes. The Department will determine the end of the regular summer closure period by reviewing each affected schools regularly published school-year calendar;

(ii) 2 hours after the time the school day is officially over. The official end of the school day will be determined by the Department as published in each affected schools regular school-day calendar.

(D) Any part of a field within 500 feet of any airport servicing regularly scheduled airline flights. In cases where an airport does not have regularly scheduled flights, field by field burning may be authorized by the Department, in accordance with the requirements in subsection (4) that apply to problem fields.

(b) It shall be the responsibility of the grower to ensure the critical non-burn area does not burn. It is recommended that the field stubble either be flail-chopped, mowed, or otherwise cut close to the ground, and the loose straw removed so that the field will not sustain an open fire. Application of water to the critical non-burn area to ensure there is no combustion is also recommended. Should any open fire occur, all flame and smoke sources shall be immediately and actively extinguished.

(c) Each responsible person conducting open field burning, propane flaming, or stack burning adjacent to a critical non-burn area shall take appropriate steps to ensure that the critical nonburn area remains unburned.

(d) Field by field burning may be authorized by the Department within 500 feet of a school that is not in-session, subject to the following restrictions:

(A) No burning is allowed upwind of the school:

(B) The responsible person burning the field makes a visual observation to first confirm that there are no children or other persons present on the school grounds.

(e) When burning next to a school or hospital critical non-burn area, or beyond 500 feet of a school that is not in-session, the Department shall take special precautions to ensure that prevailing winds do not cause smoke to impact the school or hospital.

(f) Any field that is intersected by a power transmission line of 230kV rating or greater shall be registered and burned as two separate fields, to minimize the potential of smoke to come into direct contact with the power transmission line.

(3) State Fire Marshal Safety Buffer Zones:

(a) State Fire Marshal Rules for fire safety buffer zones, as specified in OAR 837, Division 110, establish a 1/2 mile buffer zone for Interstate I-5 and the highways listed below in this subsection. No person shall cause or allow any open field burning, propane flaming, or stack burning in the following portions of the State Fire Marshal fire safety buffer zones:

(A) Within 1/4 mile of either side of Interstate I-5, from Portland to the Douglas/Lane County lines.

(B) Within 1/8 mile of either side of the designated roadways listed below, as specified in the State Fire Marshal Rules in OAR 837, Division 110:

(i) ORE 99 - The section from Junction City to Eugene;

(ii) ORE 99E - The sections from Oregon City to Salem and from Albany to Junction City;

(iii) ORE 99W - The entire section from Portland to Junction City;

(iv) US 20 - The section from Philomath to Lebanon;

(v) ORE 22 - The section from ORE 18 to Mehama;

(vi) US 26 - The section from ORE 47 interchange to Portland;

(vii) ORE 34 - The section from Corvallis to Lebanon.

(b) The 1/4 and 1/8 mile safety buffer zone distances identified above must be a noncombustible area, as defined in the State Fire Marshal Rules. For all requirements related to the State Fire Marshal Fire Safety Buffer Zones, see OAR 837, Division 110. Nothing in the Departments' rules regarding fire safety buffer zones replaces or substitutes for meeting all the requirements in the State Fire Marshal Rules.

(c) The area beyond the 1/4 and 1/8 mile noncombustible area in the fire safety buffer zone represents the area that is considered a priority area as described above in subsection (1)(a)(D) and (E). Burning in this part of the fire safety buffer zone is subject to the restrictions for priority areas in subsection (1) of these rules.

(4) Problem Fields:

(a) No problem fields shall be burned without first contacting the Department to determine what specific weather conditions and smoke management criteria need to be followed when burning the field, in order protect any school, hospital, airport, or other sensitive area, in proximity to the field.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.610

Hist.: DEQ

340-266-0080

Burning by Public Agencies (Training Fires)

In order to promote public safety through the training of firefighting personnel, ~~Open~~ field burning on grass seed or cereal grain acreage by ~~or for any public agency for official purposes, including the training of fire fighting personnel,~~ may a fire department or rural fire protection district ~~is be permitted by the Department on a prescheduled basis consistent with smoke management considerations and~~ subject to the following conditions:

(1) Such burning must be deemed necessary by the official local ~~fire~~ authority having jurisdiction, and must be conducted in a manner consistent with ~~the primary its~~ purpose ~~of providing training to firefighting personnel, in accordance with ORS 468A.020.~~

(2) Such burning must be limited to the minimum number of acres and occasions reasonably needed ~~to ensure adequate fire fighting personnel training, but in no case exceed 35 acres per fire or occasion.~~

(3) ~~The responsible person shall comply with the provisions of OAR 340-266-0040 through 340-266-0060.~~

(3) Consultation with the Department of Agriculture by the fire department or rural fire protection district is required, in order to identify the appropriate atmospheric dispersion and burning conditions for optimum smoke dispersal, to protect the public from smoke impacts.

(4) No training fires shall be allowed on any acreage that is in a State Fire Marshal safety buffer zone, and any training fire being considered in a critical non-burn area, Priority Area, or Problem Field, shall comply with the requirements in subsection (3) of these rules.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.020

Hist.: DEQ 5-1984, f. & ef. 3-7-84; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 4-1993, f. & cert. ef. 5-11-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0031

340-266-0090

Preparatory Burning

The Department encourages the preparatory burning of portions of selected ~~problem~~ fields to reduce or eliminate potential fire hazards and safety problems and to expedite the subsequent burning of the field. Such burning shall be consistent with smoke management considerations and subject to the following conditions:

(1) Each responsible person shall limit the acres burned to the minimum necessary to eliminate potential fire hazards or safety problems but in no case exceed five acres for each burn unless specifically authorized by the Department.

(2) Each responsible person conducting preparatory burning shall employ backfiring burning techniques.

(3) Each responsible person conducting preparatory burning shall comply with the provisions of OAR 340-266-0040 through 340-266-0060 and OAR 837-110-0010 through 837-110-0090.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.600

Hist.: DEQ 11-1987, f. & ef. 6-15-87; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0033

340-266-0100

Experimental Burning

The Department may allow open field burning for demonstration or experimental purposes pursuant to the provisions of ORS 468A.620, consistent with smoke management con-siderations and subject to the following conditions:

(1) Acreage experimentally open field burned, propane flamed, or stack-~~or pile~~ burned shall not exceed 1,000 acres annually.

(2) Acreage experimentally burned shall not apply to the district allocation or to the maximum annual acreage limit specified in OAR 340-266-0060(1)(a) ~~or (d)~~.

(3) Such burning is exempt from the provisions of 340-266-0070 but must comply with the provisions of OAR 340-266-0040 and 340-266-0050, except that the Department may elect to waive all or part of the per acre open field burning or propane flaming fee.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.620

Hist.: DEQ 5-1984, f. & ef. 3-7-84; DEQ 11-1987, f. & ef. 6-15-87; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0035

340-266-0110

Emergency Burning Cessation

Pursuant to ORS 468A.610 and upon finding of ~~extreme~~ danger to public health or safety, the Commission may order temporary emergency cessation of all open field burning in any area of the Willamette Valley.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.610

Hist.: DEQ 5-1984, f. & ef. 3-7-84; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0040

340-266-0120

Propane Flaming

(1) The use of propane flammers, mobile field sanitizing devices, and other field sanitation methods specifically approved by the Department are subject to the following conditions:

(a) The field shall first be prepared as follows:

(A) Either the field must have previously been open burned and the appropriate fees paid; or

(B) The field stubble must be flail-chopped, mowed, or otherwise cut close to the ground and the loose straw removed so the remaining stubble will not sustain an open fire.

(b) Propane flaming operations shall comply with the following criteria:

(A) Unless otherwise specifically restricted by the Department propane flaming may be conducted only between the hours of 9 a.m. and sunset between June 1 and August 31 of each year and (9 a.m. to 1/2 hour before sunset between September 1 and October 14 of each year;

(B) Propane flammers shall be operated in overlapping strips, crosswise to the prevailing wind, beginning along the downwind edge of the field;

(C) No person shall cause or allow propane flaming which results in sustained open fire. Should sustained open fire create excessive smoke all flame and smoke sources shall be immediately and actively extinguished;

(D) No person shall cause or allow any propane flaming which results in visibility impairment on any Interstate highways or roadways specified in OAR 837-110-0080(1) and (2). Should visibility impairment occur, all flame and smoke sources shall be immediately and actively extinguished;

(E) The acreage must be registered and permits obtained pursuant to OAR 340-266-0050;

(F) No person shall cause or allow propane flaming when either the relative humidity at the nearest reliable measuring station exceeds 65 percent or the surface winds exceed 15 miles per hour;

(G) All regrowth over eight inches in height shall be mowed or cut close to the ground and removed.

(c) All propane flaming operations shall be conducted in accordance with the State Fire Marshal's safety requirements specified in OAR 837-110-0100 through 837-110-0155;

(d) No person shall cause or allow to be initiated or maintained any propane flaming or other mobile fire sanitation methods not certified by the Department on any day or at any time if the Department has determined and notified the State Fire Marshal that propane flaming is prohibited because of adverse meteorological or air quality conditions.

(2) The Department may issue restrictive limitations on the amount, density or frequency of propane flaming or other mobile fire sanitation methods in any area when meteorological conditions are unsuitable for adequate smoke dispersion, or deterioration of ambient air quality occurs.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.600

Hist.: DEQ 5-1984, f. & ef. 3-7-84; DEQ 11-1987, f. & ef. 6-15-87; DEQ 20-1988(Temp), f. 8-12-88, cert. ef. 8-12-88 thru 2-2-89; DEQ 8-1989, f. & cert. ef. 6-7-89; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0045

340-266-0130

Stack Burning

The open burning of piled or stacked residue from perennial or annual grass seed or cereal grain crops used for seed production is allowed subject to the following conditions:

- (1) No person shall cause or allow to be initiated or maintained any stack-~~or pile~~ burning on any day or at any time if the Department has notified the State Fire Marshal that such burning is prohibited because of meteorological or air quality conditions.
- (2) No person shall cause or allow stack-~~or pile~~ burning of any grass seed or cereal grain residue unless said residue is dry and free of all other combustible and non-combustible material.
- (3) Each responsible person shall make every reasonable effort to promote efficient burning, minimize smoke emissions, and extinguish any stack burning which is in violation of any rule of the Commission.
- (4) No stack-~~or pile~~ burning shall be conducted within any State Fire Marshal buffer zone "non-combustible ground surface" area (e.g., within 1/4 mile of Interstate I-5, or 1/8 mile of any designated roadway), as specified in OAR 837-110-0080.
- (5) The acreage must be registered and permitted pursuant to OAR 340-266-0050.
- (6) Unless otherwise specifically agreed by the parties, after the straw is removed from the fields of the grower, the responsibility for the further disposition of the straw, including burning or disposal, and payment of the appropriate fees, shall be upon the person who bales, removes, controls, or is in possession of the straw.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.600

Hist.: DEQ 11-1987, f. & ef. 6-15-88; DEQ 8-1989, f. & cert. ef. 6-7-89; DEQ 5-1992, f. & cert. ef. 3-3-92 (and corrected 3-18-92); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-026-0055.

340-266-0140

Burning Fees Outside Willamette Valley

In accordance with ORS 468A.615(1)(b), each person open field burning perennial or annual grass seed crops in counties outside the Willamette Valley, shall pay the Department \$8.00 for each acre burned.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.615

Hist.: DEQ