

## DIVISION 21

### GENERAL EMISSION STANDARDS FOR PARTICULATE MATTER

#### 340-021-0015 VISIBLE AIR CONTAMINANT LIMITATIONS

- (1) Existing sources outside special control areas. No person shall cause, suffer, allow or permit the emission of any air contaminant into the atmosphere from any existing air contaminant source located outside a special control area for a period or periods aggregating more than three minutes in any one hour which is equal to or greater than 40% opacity.
- (2) New sources in all areas and existing sources within special control areas: No person shall cause, suffer, allow, or permit the emission of any air contaminant into the atmosphere from any new air contaminant source, or from any existing source within a special control area, for a period or periods aggregating more than three minutes in any one hour which is equal to or greater than 20% opacity.
- (3) Exceptions to section (1) and (2) of this rule:
  - (a) Where the present of uncombined water is the only reason for failure of any emission to meet the requirements of sections (1) and (2) of this rule, such sections shall not apply;
  - (b) Existing fuel burning equipment utilizing wood wastes and located within special control areas shall comply with the emission limitations of section (1) of this rule in lieu of section (2) of this rule.

*State effective: 1/29/96; EPA effective: 4/28/97*

### FUGITIVE EMISSIONS

#### 340-021-050 DEFINITIONS

As used in OAR 340-021-050 through 340-021-060: "Nuisance conditions" means unusual or annoying amounts of fugitive emissions traceable directly to one or more specific sources. In determining whether a nuisance condition exists, consideration shall be given to all of the circumstances, including density of population, duration of the activity in question, and other applicable factors.

*State effective: 1/29/96 EPA effective: 4/28/97*

#### 340-021-055 APPLICABILITY

OAR 340-021-050 through 340-021-060 shall apply:

- (1) Within Special Control Areas, as established in OAR 340-21-010.
- (2) When ordered by the Department, in other areas when the need for application of these rules, and the practicability of control measures, have been clearly demonstrated.

*State effective: 3/10/93; EPA effective: 4/28/97*

## **340-021-060 REQUIREMENTS**

(1) When fugitive emissions escape from a building or equipment in such a manner and amount as to create nuisance conditions or to violate any regulation, the Department may, in addition to other means of obtaining compliance, order that the building or equipment in which processing, handling and storage are done be tightly closed and ventilated in such a way that air contaminants are controlled or removed before discharge to the open air.

(2) No person shall cause, suffer, allow, or permit any materials to be handled, transported, or stored; or a building, its appurtenances, or a road to be used, constructed, altered, repaired or demolished; or any equipment to be operated, without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions shall include, but not be limited to the following:

(a) Use where possible of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land;

(b) Application of asphalt, oil, water, or other suitable chemicals on unpaved roads, materials stockpiles, and other surfaces which can create airborne dusts;

(c) Full or partial enclosure of materials stockpiles in cases where application of oil, water, or chemicals are not sufficient to prevent particulate matter from becoming airborne

(d) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials;

(e) Adequate containment during sandblasting or other similar operations;

(f) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne;

(g) The prompt removal from paved streets of earth or other material which does or may become airborne.

*State effective: 3/10/93; EPA effective: 4/28/97*

## **INDUSTRIAL CONTINGENCY REQUIREMENTS FOR PM-10 NONATTAINMENT AREAS**

### **340-021-200 PURPOSE**

OAR 340-021-200 through 340-021-245 establish contingency control requirements for existing industrial sources in the following PM<sub>10</sub> nonattainment areas: Medford-Ashland; Grants Pass; Klamath Falls; La Grande. ~~as required under section 172(c) of the Clean Air Act.~~ These requirements become effective in the PM<sub>10</sub> nonattainment area if the area fails to attain the national ambient air quality standard for PM<sub>10</sub> by the applicable attainment date in the Clean Air Act.

*State effective: 5/1/95; EPA effective: 11/21/1999*

### **340-021-205 RELATION TO OTHER RULES**

OAR 340-021-200 through 340-021-245 shall apply in addition to all other rules of the Environmental Quality Commission. The adoption of these rules shall not, in any way, affect the applicability of all other rules of the Environmental Quality Commission and the latter shall remain in full force and effect, except as expressly provided otherwise. In cases of apparent conflict, the most stringent rule shall apply.

*State effective: 3/10/93; EPA effective: 4/28/97*

### **340-021-210 APPLICABILITY**

(1) OAR 340-21-200 through 340-21-245 shall apply in a PM<sub>10</sub> nonattainment area upon publication by EPA of notice in the Federal Register that the area has failed to attain the national ambient air quality standard for PM<sub>10</sub> by the attainment date required in the Clean Air Act.

(2) (a) OAR 340-21-200 through 340-21-245 shall apply to a major source located outside of a PM<sub>10</sub> nonattainment area upon a determination by the Department based upon a study conducted under subsection (b) of this section that the source has a significant impact on a PM<sub>10</sub> nonattainment area affected under section (1) of this rule.

(b) Upon request of the Department, the owner or operator of any source with the potential to have a significant impact on a PM<sub>10</sub> nonattainment area shall conduct, prior to the attainment date required in the Clean Air Act and in accordance with a study protocol approved by the Department, a receptor and dispersion modeling study of the impact of emissions from the source on the PM<sub>10</sub> nonattainment area.

*State effective: 3/10/93; EPA effective: 4/28/97*

### **340-021-215 DEFINITIONS**

As used in OAR 340-021-200 through 340-021-245:

(1) “Air Conveying System” means an air moving device, such as a fan or blower, associated ductwork, and a cyclone or other collection device, the purpose of which is to move material from one point to another by entrainment in a moving air stream.

(2) “Charcoal Producing Plant” means an industrial, operation which uses the destructive distillation of wood to obtain the fixed carbon in the wood.

(3) “Collection Efficiency” means the overall performance of the air cleaning device in terms of ratio of weight of material collected to total weight of input to the collector.

(4) “Contingency Requirements” means the requirements of OAR 340-0 21-200 through 340-21-245.

(5) “Design Criteria” means the numerical as well as narrative description of the basis of design including, but not necessarily limited to, design flow rates, temperatures, humidities, descriptions of the types and chemical species of contaminants, uncontrolled and expected controlled mass

emission rates and concentrations, scopes of any vendor-supplied and owner-supplied equipment and utilities, and a description of any operational controls.

(6) "EPA" means the United States Environmental Protection Agency.

(7) "Fugitive Emissions" means dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof not easily given to measurement, collection and treatment by conventional pollution control methods.

(8) "General Arrangement" means drawings or reproductions which show, as a minimum, the size and location of the control equipment on a source plot plan, the location of equipment served by the emission-control system, the location and elevation above grade of the ultimate point of contaminant emission to the atmosphere, and the diameter of the emission vent.

(9) "Hardboard" means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.

(10) "Large Sawmill" means a sawmill and/or planning mill which produces 25,000 or more board feet/shift of finished product.

(12) "Major Source" means a stationary source which emits, or has the potential to emit, any pollutant regulated under the Clean Air Act at a Significant Emission Rate (OAR 340-020-225(25)).

(13) "Opacity" means the degree to which an emission reduces transmission of light and obscures the view of an object in the background as measured in accordance with the Department's Source Sampling Manual.

(14) "Particleboard" means matformed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binder.

(15) "Particulate Matter" means all solid or liquid material, other than uncombined water, emitted to the ambient air as measured in accordance with the Department Source Sampling Manual. Particulate matter emission determinations shall consist of the average of three separate consecutive runs. For sources tested using DEQ Method 5 or DEQ Method 7, each run shall have a minimum sampling time of one hour, a maximum sampling time of eight hours, and a minimum sampling volume of 31.8 dscf. For sources tested using DEQ Method 8, each run shall have a minimum sampling time of 15 minutes, and shall collect a minimum particulate sample of 100 mg. Wood waste boilers shall be tested with DEQ Method 5; wood particle dryers, fiber dryers and press/cooling vents shall be tested with DEQ Method 7; and air conveying systems shall be tested with DEQ Method 8.

(16) "Plywood" means a flat panel built generally of an odd number of thin sheets of veneers of wood in which the grain direction of each ply or layer is at right angles to the one adjacent to it.

(17) “Press/Cooling Vents” means any openings, generally located immediately above the board press or board cooling area, through which particulate and gaseous emissions from panelboard manufacturing (including, but not limited to, particleboard and hardboard) are exhausted, either by natural draft or by powered fan, from the building housing the process.

(18) “Significant Impact” means an annual average impact of 1.0 ug/m<sup>3</sup> or 24-hour average impact of 5.0 ug/m<sup>3</sup> of PM<sub>10</sub> from a source at the point of maximum concentration within a PM<sub>10</sub> nonattainment area as computed by a receptor and dispersion model approved by the Department.

(19) “Veneer” means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.

*State effective: 3/10/93; EPA effective: 4/28/97*

### **340-021-215 DEFINITIONS**

As used in OAR 340-021-200 through 340-021-245:

(1) “Air Conveying System” means an air moving device, such as a fan or blower, associated ductwork, and a cyclone or other collection device, the purpose of which is to move material from one point to another by entrainment in a moving air stream.

(2) “Charcoal Producing Plant” means an industrial, operation which uses the destructive distillation of wood to obtain the fixed carbon in the wood.

(3) “Collection Efficiency” means the overall performance of the air cleaning device in terms of ratio of weight of material collected to total weight of input to the collector.

(4) “Contingency Requirements” means the requirements of OAR 340-0 21-200 through 340-21-245.

(5) “Design Criteria” means the numerical as well as narrative description of the basis of design including, but not necessarily limited to, design flow rates, temperatures, humidities, descriptions of the types and chemical species of contaminants, uncontrolled and expected controlled mass emission rates and concentrations, scopes of any vendor-supplied and owner-supplied equipment and utilities, and a description of any operational controls.

(6) “EPA” means the United States Environmental Protection Agency.

(7) "Fugitive Emissions" means dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof not easily given to measurement, collection and treatment by conventional pollution control methods.

(8) "General Arrangement" means drawings or reproductions which show, as a minimum, the size and location of the control equipment on a source plot plan, the location of equipment served by the emission-control system, the location and elevation above grade of the ultimate point of contaminant emission to the atmosphere, and the diameter of the emission vent.

(9) "Hardboard" means a flat panel made from wood that has been reduced to basic wood fibers and bonded by adhesive properties under pressure.

(10) "Large Sawmill" means a sawmill and/or planning mill which produces 25,000 or more board feet/shift of finished product.

(12) "Major Source" means a stationary source which emits, or has the potential to emit, any pollutant regulated under the Clean Air Act at a Significant Emission Rate (OAR 340-020-225(25)).

(13) "Opacity" means the degree to which an emission reduces transmission of light and obscures the view of an object in the background as measured in accordance with the Department's Source Sampling Manual.

(14) "Particleboard" means matformed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binder.

(15) "Particulate Matter" means all solid or liquid material, other than uncombined water, emitted to the ambient air as measured in accordance with the Department Source Sampling Manual. Particulate matter emission determinations shall consist of the average of three separate consecutive runs. For sources tested using DEQ Method 5 or DEQ Method 7, each run shall have a minimum sampling time of one hour, a maximum sampling time of eight hours, and a minimum sampling volume of 31.8 dscf. For sources tested using DEQ Method 8, each run shall have a minimum sampling time of 15 minutes, and shall collect a minimum particulate sample of 100 mg. Wood waste boilers shall be tested with DEQ Method 5; wood particle dryers, fiber dryers and press/cooling vents shall be tested with DEQ Method 7; and air conveying systems shall be tested with DEQ Method 8.

(16) "Plywood" means a flat panel built generally of an odd number of thin sheets of veneers of wood in which the grain direction of each ply or layer is at right angles to the one adjacent to it.

(17) “Press/Cooling Vents” means any openings, generally located immediately above the board press or board cooling area, through which particulate and gaseous emissions from panelboard manufacturing (including, but not limited to, particleboard and hardboard) are exhausted, either by natural draft or by powered fan, from the building housing the process.

(18) “Significant Impact” means an annual average impact of 1.0 ug/m<sup>3</sup> or 24-hour average impact of 5.0 ug/m<sup>3</sup> of PM<sub>10</sub> from a source at the point of maximum concentration within a PM<sub>10</sub> nonattainment area as computed by a receptor and dispersion model approved by the Department.

(19) “Veneer” means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.

*State effective: 3/10/93; EPA effective: 4/28/97*

### **340-21-220 COMPLIANCE SCHEDULE FOR EXISTING SOURCES**

(1) Except as provided in sections (2) and (3) of this rule, compliance with applicable contingency requirements for a source that is located in an area prior to the date the contingency requirements first apply under OAR 340-21-210 shall be demonstrated as expeditiously as possible, but in no case later than the following schedule:

(a) No later than three months after the date the contingency requirements first apply under OAR 340-21-210~ the owner or operator shall submit Design Criteria and a Notice of Intent to Construct for emission control systems for Department review and approval; and if the Department disapproves the Design Criteria, the owner or operator shall revise the Design Criteria to meet the Department’s objections and submit the revised Design Criteria to the Department no later than one month after receiving the Department’s disapproval;

(b) No later than three months after receiving the Department’s approval of the Design Criteria, the owner or operator shall submit to the Department a General Arrangement and copies of purchase orders for any emission-control devices;

(c) No later than eight months after receiving the Department’s approval of the Design Criteria, the owner or operator shall submit to the Department vendor drawings as approved for construction of any emission-control devices and specifications of any other major equipment in the emission control system in sufficient detail to demonstrate that the requirements of the Design Criteria will be satisfied;

(d) No later than nine months after receiving the Department’s approval of the Design Criteria, the owner or operator shall begin construction of any emission-control devices;

(e) No later than sixteen months after receiving the Department's approval of Design Criteria, the owner or operator shall complete construction in accordance with the Design Criteria;

(f) No later than thirty months from the date the contingency requirements first apply under OAR 340-21-210 the owner or operator shall demonstrate compliance with the applicable contingency requirements.

(2) Section (1) of this rule shall not apply if the owner or operator has demonstrated within six months after the date the contingency requirements first apply under OAR 340-21-210 that the source is capable of being operated and is operated in continuous compliance with applicable contingency requirements and the Department has agreed with the demonstration in writing. The Department may grant an extension of up to 'twelve months after the date the contingency requirements first apply under OAR 340-21-210 for a source to demonstrate compliance under this section. The applicable contingency requirements shall be incorporated in the Air Contaminant Discharge Permit issued to the source.

(3) The Department may adjust the schedule specified in paragraphs (a) through (e) of section (1) of this rule if necessary to ensure timely compliance with paragraph (f) of section (1) of this rule.

*State effective: 3/10/93; EPA effective: 4/28/97*

### **340-021-225 Wood-Waste Boilers**

No person shall cause or permit the emission into the atmosphere from any wood-waste boiler that is located on a plant site where the total heat input capacity from all wood-waste boilers is greater than 35 million Btu/hr:

(1) Any air contaminant for a period or periods aggregating more than three minutes in any one hour which is equal to or greater than 10% opacity, unless the permittee demonstrates by source test that the source can comply with the emission limit in section (2) of this rule at higher opacity but in no case shall emissions equal or exceed 20% opacity for more than an aggregate of 3 minutes in any one hour. Specific opacity limits shall be included in the Air Contaminant Discharge Permit for each affected source.

(2) Particulate matter in excess of 0.05 grains per standard cubic foot, corrected to 12% CO<sub>2</sub>.

*State effective: 3/10/93; EPA effective: 2/25/1997*

### **340-021-230 Wood Particle Dryers at Particleboard Plants**

(1) No person shall cause or permit the total emission of particulate matter from all wood particle dryers at a particleboard plant site to exceed 0.40 pounds per 1,000 square feet of board produced by the plant on a 3/4" basis of finished product equivalent.

(2) No person shall cause or permit the visible emissions from the wood particle dryers at a particleboard plant to exceed 10% opacity, unless the permittee demonstrates by source test that the particleboard matter emission limit in section (1) of this rule can be achieved at higher visible emissions, but in no case shall emissions equal or exceed 20% opacity. Specific opacity limits shall be included in the Air Contaminant Discharge Permit for each effective source.

*State effective: 3/10/93; EPA effective: 2/25/1997*

### **340-021-235 Hardboard Manufacturing Plants**

No person shall cause or permit the total emissions of particulate matter from all sources within a hardboard plant, other than press/cooling vents, in excess of 0.25 pounds per 1,000 square feet of hardboard produced on a 1/8" basis of finished product equivalent.

*State effective: 3/10/93; EPA effective: 2/25/1997*

### **340-021-0240 Air Conveying Systems**

(1) No person shall cause or permit the emission of particulate matter in excess of 0.1 grains per standard cubic foot from any air conveying system emitting less than or equal to 10 tons of particulate matter to the atmosphere during any 12-month period beginning on or after January 1, 1990.

(2) All air conveying systems emitting greater than 10 tons of particulate matter to the atmosphere during any 12-month period beginning on or after January 1, 1990 shall be equipped with a control system with a collection efficiency of at least 98.5 percent or equivalent control as approved by the Department.

(3) No person shall cause or permit the emission of any air contaminant which is equal to or greater than 5% opacity from any air conveying system subject to section (2) of this rule.

*State effective: 3/10/93; EPA effective: 2/25/1997*

### **340-021-245 Fugitive Emissions**

The owner or operator of a large sawmill, any plywood mill or veneer manufacturing plant, particleboard plant, hardboard plant, or charcoal manufacturing plant that is located in an area subject to contingency requirements under OAR 340-021-210 shall comply with OAR 340-030-

043.

*State effective: 3/10/93; EPA effective:4/28/1997*

## **Division 23**

### **Rules for Open Burning**

#### **340-023-022 HOW TO USE THESE OPEN BURNING RULES**

(1) This Division classifies all open burning into one of seven classes: Agricultural; Commercial; Construction; Demolition (which includes land clearing); Domestic (which includes burning commonly called "backyard burning" and burning of yard debris); Industrial; or Slash. Except for field burning within the Willamette Valley regulated through OAR Chapter 340, Division 26 and slash burning which is controlled by the forest practices smoke management plan administered by the Oregon Department of Forestry, this Division prescribes requirements for and prohibitions of open burning for every location in the state. Generally, if a class of open burning is not specifically prohibited in a given location, then it is authorized subject to OAR 340-023-040 and 340-023-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal. In addition, some practices specifically mentioned in OAR 340-23-035 are exempted from this Division.

(2) Organization of rules:

(a) OAR 340-023-025 is the Policy statement of the Environmental Quality Commission setting forth the goals of this Division.

(b) OAR 340-023-030 contains definitions of terms which have specialized meanings within the context of this Division.

(c) OAR 340-023-035 lists specific types of open burning and practices that are not governed by this Division.

(d) OAR 340-023-040 lists general requirements which are usually applicable to any open burning governed by this Division.

(e) OAR 340-023-042 lists general prohibitions which apply to most open burning.

(f) OAR 340-023-043 establishes the open burning schedule based on air quality and meteorological conditions as required by ORS 468A.570.

(g) OAR 340-023-045 indexes each county of the state to a specific rule giving specific restrictions for each class of open burning applicable in the county.

(h) OAR 340-023-055 through 340-023-090 are rules that give specific restrictions to open burning for each class of open burning in the counties named in each rule.

(i) OAR 340-023-100 provides for a letter permit authorization for open burning under certain circumstances in which open burning otherwise would be prohibited.

(j) OAR 340-023-105 establishes criteria for use of forced-air pit incineration.

(k) OAR 340-023-110 requires fire permit issuing agencies to keep record and reports.

(l) OAR 340-023-115 contains the legal description of Open Burning Control Areas and maps that generally depict these areas.

(3) Use of this Division will be made easier by the following procedure:

(a) Read OAR 340-023-040 and 340-023-042 to understand general requirements and prohibitions that apply to all burning governed by this Division.

(b) In OAR 340-023-030 read the definitions of Agricultural, Commercial, Construction, Demolition, Domestic and Industrial open burning plus the definitions of land clearing and yard debris to determine the type of burning of concern. Also read OAR 340-023-035 to determine if the type of burning is exempted from this Division.

(c) Locate the rule (OAR 340-023-055 through 340-023-090) that governs the county in which burning is to take place. OAR 340-023-045 is an index to the county rules.

(d) Read the sections of the county rules that apply to the type of burning to be accomplished.

(e) If not prohibited by this Division, obtain a fire permit from the fire district, county court or county commissioners before conducting any burning.

(f) If the type of burning proposed is prohibited by this Division, refer to OAR 340-023-100 (Letter Permits) or 340-363-105 (Forced-Air Pit Incinerators) for a possible alternative.

*State effective: 3/10/93; EPA effective: 4/28/1997*

### **340-023-025 POLICY**

In order to restore and maintain the quality of the air resources of the state in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the state, it is the policy of the Environmental Quality Commission:

(1) To eliminate open burning disposal practices where alternative disposal methods are feasible and practicable;

(2) To encourage the development of alternative disposal methods;

(3) To emphasize resource recovery;

(4) To regulate specified types of open burning;

(5) To encourage utilization of the highest and best practicable burning methods to minimize emissions where other disposal practices are not feasible; and

(6) To require specific programs and timetables for compliance with this Division.

*State effective: 3/10/93; EPA effective: 4/28/1997*

### **340-023-030 DEFINITIONS**

As used in this division:

(1) "Agricultural Burning for Disease or Pest Control" means open burning of agricultural waste infected or infested with a disease or pest for which no other practicable control exists. Pests or diseases for which no practicable control alternative exists shall include only those pests and diseases identified by the County Extension Service or Oregon Department of Agriculture.

(2) "Agricultural Operation" means an activity on land currently used or intended to be used primarily for the purpose of obtaining a profit in money by raising, harvesting and selling crops or by the raising and sale of livestock or poultry, or the produce thereof, which activity is necessary to serve that purpose; it does not include the construction and use of dwellings customarily provided in conjunction with the agricultural operation.

(3) "Agricultural Open Burning" means the open burning of any agricultural waste, except as provided in OAR 340-023-035(5).

(4) "Agricultural Waste" means any waste material actually generated or used by an agricultural operation, excluding those materials described in OAR 340-023-042(2).

(5) "Auxiliary Combustion Equipment" includes, but is not limited to, fans or air curtain incinerators.

(6) "Combustion Promoting Materials" include, but are not limited to, propane, diesel oil, or jellied diesel.

(7) "Commercial Open Burning" means the open burning of any commercial waste.

(8) "Commercial Waste" means:

(a) Any material except:

(A) Agricultural waste;

(B) Construction waste;

(C) Demolition waste;

(D) Domestic waste;

(E) Industrial waste; and

(F) Slash.

(b) Examples of commercial waste are waste material from offices, wholesale or retail yards and outlets, warehouses, restaurants, mobile home parks, domestic waste removed from the property of origin, and dwellings containing more than four family living units, such as apartments, condominiums, hotels, motels or dormitories.

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

- (10) "Construction Open Burning" means the open burning of any construction waste.
- (11) "Construction Waste" means any waste material actually resulting from or produced by a building or construction project. Examples of construction waste are wood, lumber, paper, crating and packing materials used during construction, materials left after completion of construction and materials collected during cleanup of a construction site.
- (12) "Demolition Open Burning" means the open burning of demolition waste.
- (13) "Demolition Waste" means any material actually resulting from or produced by the complete or partial destruction or tearing down of any man-made structure, or the clearing of any site for land improvement or cleanup, excluding yard debris (domestic waste) and agricultural waste.
- (14) "Department" means the Department of Environmental Quality.
- (15) "Director" means the Director of the Department or delegated employee representative pursuant to ORS 468.045(3).
- (16) "Domestic Open Burning" means the open burning of any domestic waste.
- (17) "Domestic Waste" means household waste material, which includes paper, cardboard, clothing, yard debris, or other material actually generated in or around a dwelling of four (4) or fewer family living units, or on the real property appurtenant to the dwelling. Such waste materials generated in or around a dwelling of more than four (4) family living units are commercial wastes. Once domestic waste is removed from the property of origin, it becomes commercial waste.
- (18) "Fire Hazard" means the presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare, or adjacent lands.
- (19) "Forced-Air Pit Incineration" means any method or device by which burning is accomplished in a subsurface pit or above ground enclosure using:
- (a) Combustion air supplied under positive draft by an air curtain; and
  - (b) Combustion air controlled in such a manner as to optimize combustion efficiency and minimize the emission of air contaminants.
- (20) "Industrial Open Burning" means the open burning of any industrial waste.
- (21) "Industrial Waste" means any waste material, including process waste, produced as the direct result of any manufacturing or industrial process.
- (22) "Land Clearing" means the removal of trees, brush, logs, stumps, debris or man-made structures for the purpose of site clean-up or site preparation. All waste material generated by land clearing is demolition waste except those materials which are included in the definitions of agricultural wastes, yard debris (domestic waste), and slash.
- (23) "Letter Permit" means an Air Contaminant Discharge Permit issued pursuant to OAR 340-

023-100.

(24) "Local Jurisdiction" means:

- (a) The local fire permit issuing authority; or
- (b) Local governmental entity having authority to regulate by law or ordinance.

(25) "Open Burning" means:

- (a) Burning in open, outdoor fires;
- (b) Burning in burn barrels;
- (c) Burning in incinerators which do not meet the emission limitations specified for refuse burning equipment in OAR 340-21-025; and
- (d) Any other outdoor 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.

(26) "Open Burning Control Area" means an area established to control specific open burning practices or to maintain specific open burning standards which may be more stringent than those established for other areas of the state. Open burning control areas in the state are described in OAR 340-023-115. The open burning control areas in the state are:

(a) All areas in or within three (3) miles of the corporate city limits of cities having a population of four thousand (4,000) or more, as further described in OAR 340-023-115(1) and generally shown in Figure 2 thereof.

(b) The Coos Bay open burning control area, as described in OAR 340-023-115(2) and generally shown in Figure 3 thereof.

(c) The Rogue Basin open burning control area, as described in OAR 340-023-115(3) and generally shown in Figure 4 thereof.

(d) The Umpqua Basin open burning control area, as described in OAR 340-023-115(4) and generally shown in Figure 5 thereof.

(e) The Willamette Valley open burning control area, as described in OAR 340-023-115(5) and generally shown in Figure 2 thereof.

(27) "Person" means any individual, corporation, association, firm, partnership, joint stock company, public or municipal corporation, political subdivision, the state or any agency thereof, or the federal government or any agency thereof.

(28) "Population" means the annual population estimate of incorporated cities within the State of Oregon issued by the Center for Population Research and Census, Portland State University, Portland, Oregon.

(29) "Slash" means forest debris or woody vegetation to be burned under the Oregon Smoke Management Plan administered by the Oregon Department of Forestry pursuant to ORS 477.515. The burning of slash must be related to the management of forest land used for growing and

harvesting timber.

(30) "Ventilation Index" means a number calculated by the Department relating to the ability of the atmosphere to disperse pollutants. The ventilation index is the product of the measured or estimated meteorological mixing depth in hundreds of feet and the measured or estimated average wind speed in knots through the mixed layer.

(31) "Waste" includes any useless or discarded materials. Each waste is categorized in this Division as one of the following types:

- (a) Agricultural;
- (b) Commercial;
- (c) Construction;
- (d) Demolition;
- (e) Domestic;
- (f) Industrial; or
- (g) Slash.

(32) "Yard Debris" means wood, needle or leaf materials from trees, shrubs or plants from the real property appurtenant to a dwelling of not more than four (4) family living units so long as such debris remains on the property of origin. Once yard debris is removed from the property of origin, it becomes commercial waste. Yard debris is included in the definition of domestic waste.

*State effective: 3/10/93; EPA effective: 4/28/1997*

### **340-023-035 EXEMPTIONS, STATEWIDE**

This Division shall not apply to:

(1) Fires set for traditional recreational purposes and traditional ceremonial occasions for which a fire is appropriate provided that no materials which may emit dense smoke or noxious odors as prohibited in OAR 340-023-042(2) are burned.

(2) The operation of any barbecue equipment.

(3) Fires set or permitted by any public agency when such fire is set or permitted in the performance of its official duty for the purpose of weed abatement, prevention or elimination of a fire hazard, or a hazard to public health or safety, or for instruction of employees in the methods of fire fighting, which in the opinion of the public agency is necessary.

(4) Agricultural open burning conducted east of the crest of the Cascade Mountains including all of Hood River and Klamath Counties.

(5) Open field burning, propane flaming, and stack and pile burning in the Willamette Valley between the crests of the Cascade and Coast Ranges pursuant to OAR Chapter 340, Division 26,

## Rules for Field Burning.

(6) Open burning on forest land permitted under the forest practices Smoke Management Plan filed with the Secretary of the State pursuant to ORS 477.515.

(7) Fires set pursuant to permit for the purpose of instruction of employees of private industrial concerns in methods of fire fighting, or for civil defense instruction.

*State effective: 3/10/93; EPA effective: 4/28/1997*

### **340-023-040 GENERAL REQUIREMENTS STATEWIDE**

This rule applies to all open burning within the purview of this Division whether authorized, permitted or prohibited by this Division unless expressly limited therein, or by any other rule, regulation, permit, ordinance, order or decree of this Commission or other agency having jurisdiction:

(1) All open burning shall be constantly attended by a responsible person or an expressly authorized agent until extinguished.

(2) Each person who is in ownership, control or custody of the real property on which open burning occurs, including any tenant thereof; or who is in ownership, control or custody of the material that is burned; shall be considered a responsible person for the open burning. Any person who causes or allows open burning to be initiated or maintained shall also be considered a responsible person.

(3) It shall be the duty of each responsible person to promptly extinguish any burning which is in violation of any rule of the Commission or of any permit issued by the Department unless the Department has given written approval to such responsible person to use auxiliary combustion equipment or combustion promoting materials to minimize smoke production and the responsible person complies with the requirements in the written approval. However, nothing in this section shall be construed to authorize any violation of OAR 340-023-042(1) or (2).

(4) To promote efficient burning and prevent excessive emissions of smoke, each responsible person shall, except where inappropriate to agricultural open burning:

(a) Assure that all combustible material is dried to the extent practicable. This action shall include covering the combustible material when practicable to protect the material from deposition of moisture in any form, including precipitation or dew. However, nothing in this section shall be construed to authorize any violation of OAR 340-023-042 (1) or (2).

(b) Loosely stack or windrow the combustible material in such a manner as to eliminate dirt, rocks and other noncombustible material and promote an adequate air supply to the burning pile,

and provide the necessary tools and equipment for the purpose.

(c) Periodically re-stack or feed the burning pile and insure that combustion is essentially completed and smoldering fires are prevented, and provide the necessary tools and equipment for the purpose.

(5) Notwithstanding OAR 340-023-035(4), each person sanitizing perennial or annual grass seed crops by open burning, in counties outside the Willamette Valley, shall pay the Department \$4.00 for each acre burned.

(a) The Department may contract with counties, rural fire protection districts, or other responsible individuals for the collection of the fees.

(b) All fees collected under this section must be deposited in the State Treasury to the credit of the Department of Agriculture Service Fund.

(6) Open 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 this or any other governmental entity having jurisdiction.

*State effective: 3/10/93; EPA effective: 4/28/1997*

### **340-023-042 GENERAL PROHIBITIONS STATEWIDE**

This rule applies to all open burning within the purview of this Division whether authorized, permitted or prohibited by this Division unless expressly limited therein, or by any other rule, regulation, permit, ordinance, order or decree of this Commission or other agency having jurisdiction:

(1) No person shall cause or allow to be initiated or maintained any open burning which interferes unreasonably with enjoyment of life or property or which creates any of the following:

- (a) A private nuisance, except as created by agricultural open burning;
- (b) A public nuisance, except as created by agricultural open burning; or
- (c) A hazard to public safety.

(2) No person shall cause or allow to be initiated or maintained any open burning of any wet garbage, plastic, wire insulation, automobile part, asphalt, petroleum product, petroleum treated material, rubber product, animal remains, or animal or vegetable matter resulting from the

handling, preparation, cooking, or service of food or of any other material which normally emits dense smoke or noxious odors.

(3) No person shall cause or allow to be initiated or maintained any open burning of any material in any part of the state on any day or at any time if the Department has notified the State Fire Marshal that such open burning is prohibited because of meteorological or air quality conditions pursuant to OAR 340-023-043.

(4) No fire permit issuing agency shall issue any fire permit which purports to authorize any open burning of any material at any location on any day or at any time if the Department has notified the State Fire Marshal that such open burning is prohibited because of meteorological or air quality conditions. However, the failure of any fire permit issuing agency to comply shall not excuse any person from complying with this section.

(5) No person shall cause or allow to be initiated or maintained any open burning authorized by this Division during hours other than specified by the Department.

(6) No person shall cause or allow to be initiated or maintained any open burning at any solid waste disposal site unless authorized by a Solid Waste Permit issued pursuant to OAR 340-061-085.

*State effective: 3/10/93; EPA effective: 4/28/1997*

### **340-023-043 OPEN BURNING SCHEDULE**

Pursuant to ORS 468A.570, 476.380, 477.520 and 478.960, the following open burning schedule shall be administered by the Department:

(1) Mandatory Prohibition Based on Adverse Air Quality Conditions:

(a) The Department shall notify the State Fire Marshal that all open burning shall be prohibited in all or a specified part of the state for the times and locations which the Department has declared:

(A) A particulate or sulfur dioxide alert pursuant to OAR 340-027-010(2);

(B) A particulate or sulfur dioxide warning pursuant to OAR 340-027-010(3); or

(C) An emergency for any air contaminant pursuant to OAR 340-027-010(4).

(b) All open burning shall be prohibited until the Department notifies the State Fire Marshal that the episode and prohibition have been declared to have terminated.

(2) Discretionary Prohibition or Limitation Based on Meteorological Conditions:

(a) The Department may notify the State Fire Marshal that all or specified types of open burning shall be prohibited or limited in all or any specified parts of the state based on any one or more of the following criteria affecting that part of the state:

(A) An Air Stagnation Advisory issued by the National Weather Service;

(B) The daily maximum ventilation index calculated by the Department for Willamette Valley Open Burning Control Areas or Umpqua Basin Open Burning Control Area is less than 200;

(C) The daily maximum ventilation index calculated by the Department for the Rogue Basin or Umpqua Basin Open Burning Control Area is less than;

(i) 200 for burning of orchard prunings during February 1992 and February 1993 on days with a green wood burning advisory;

(ii) 200 for agricultural burning for disease or pest control on days with a green wood burning advisory;

(iii) 400 for all other open burning;

(D) The daily maximum ventilation index calculated by the Department for any area outside the Willamette Valley, Rogue Basin and Umpqua Basin open burning control areas is less than 150;

(E) For regulation of burning of yard debris in urban areas, consideration of the amount of precipitation, expected during the day; or

(F) Any other relevant factor.

(b) All open burning so prohibited or limited shall be prohibited or limited until the Department notifies the State Fire Marshal that the prohibition or limitation has been terminated;

(c) In making the determination of whether or not to prohibit or limit open burning pursuant to this section, the Department shall consider:

(A) The policy of the state set forth in ORS 468A.010;

(B) The relevant criteria set forth in ORS 468A.025(2);

(C) The extent and types of materials available to be open burned;

(D) In the case of Agricultural open burning, the recommendations received from any local agricultural smoke management organization; and

(E) Any other relevant factor.

(d) In making the determination in whether or not to prohibit or limit any open burning pursuant to this section the Department must give first priority to the burning of perennial grass seed crop used for grass seed production, second priority for annual grass seed crop used for grass seed production, third priority to grain crop burning, and fourth priority to all other burning.

(3) Unless and until prohibited or limited pursuant to sections (1) or (2) of this rule, open burning will be allowed during a day, so long as it is not prohibited by, and is conducted consistent with the other rules in this Division and the requirements and prohibitions of local jurisdiction and the State Fire Marshal.

*State effective: 3/10/93; EPA effective: 4/28/1997*

### **340-023-043 OPEN BURNING SCHEDULE**

Pursuant to ORS 468A.570, 476.380, 477.520 and 478.960, the following open burning schedule shall be administered by the Department:

(1) Mandatory Prohibition Based on Adverse Air Quality Conditions:

(a) The Department shall notify the State Fire Marshal that all open burning shall be prohibited in all or a specified part of the state for the times and locations which the Department has declared:

(A) A particulate or sulfur dioxide alert pursuant to OAR 340-027-010(2);

(B) A particulate or sulfur dioxide warning pursuant to OAR 340-027-010(3); or

(C) An emergency for any air contaminant pursuant to OAR 340-027-010(4).

(b) All open burning shall be prohibited until the Department notifies the State Fire Marshal that the episode and prohibition have been declared to have terminated.

(2) Discretionary Prohibition or Limitation Based on Meteorological Conditions:

(a) The Department may notify the State Fire Marshal that all or specified types of open

burning shall be prohibited or limited in all or any specified parts of the state based on any one or more of the following criteria affecting that part of the state:

(A) An Air Stagnation Advisory issued by the National Weather Service;

(B) The daily maximum ventilation index calculated by the Department for Willamette Valley Open Burning Control Areas or Umpqua Basin Open Burning Control Area is less than 200;

(C) The daily maximum ventilation index calculated by the Department for the Rogue Basin or Umpqua Basin Open Burning Control Area is less than;

(i) 200 for burning of orchard prunings during February 1992 and February 1993 on days with a green wood burning advisory;

(ii) 200 for agricultural burning for disease or pest control on days with a green wood burning advisory;

(iii) 400 for all other open burning;

(D) The daily maximum ventilation index calculated by the Department for any area outside the Willamette Valley, Rogue Basin and Umpqua Basin open burning control areas is less than 150;

(E) For regulation of burning of yard debris in urban areas, consideration of the amount of precipitation, expected during the day; or

(F) Any other relevant factor.

(b) All open burning so prohibited or limited shall be prohibited or limited until the Department notifies the State Fire Marshal that the prohibition or limitation has been terminated;

(c) In making the determination of whether or not to prohibit or limit open burning pursuant to this section, the Department shall consider:

(A) The policy of the state set forth in ORS 468A.010;

(B) The relevant criteria set forth in ORS 468A.025(2);

(C) The extent and types of materials available to be open burned;

(D) In the case of Agricultural open burning, the recommendations received from any

local agricultural smoke management organization; and

(E) Any other relevant factor.

(d) In making the determination in whether or not to prohibit or limit any open burning pursuant to this section the Department must give first priority to the burning of perennial grass seed crop used for grass seed production, second priority for annual grass seed crop used for grass seed production, third priority to grain crop burning, and fourth priority to all other burning.

(3) Unless and until prohibited or limited pursuant to sections (1) or (2) of this rule, open burning will be allowed during a day, so long as it is not prohibited by, and is conducted consistent with the other rules in this Division and the requirements and prohibitions of local jurisdiction and the State Fire Marshal.

*State effective: 3/10/93; EPA effective: 4/28/1997*

**340-023-055 BAKER, CLATSOP, CROOK, CURRY, DESCHUTES, GILLIAM, GRANT, HARNEY, HOOD RIVER, JEFFERSON, KLAMATH, LAKE, LINCOLN, MALHEUR, MORROW, SHERMAN, TILLAMOOK, UMATILLA, UNION, WALLOWA, WASCO AND WHEELER COUNTIES**

Open burning prohibitions for the counties of Baker, Clatsop, Crook, Curry, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Lincoln, Malheur, Morrow, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco and Wheeler:

(1) Industrial open burning is prohibited, except as provided in OAR 340-023-100.

(2) Agricultural open burning:

(a) In Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco and Wheeler Counties, agricultural open burning is allowed under this Division subject to OAR 340-023-040(5).

(b) In Clatsop, Curry, Lincoln and Tillamook Counties agricultural open burning is allowed subject to OAR 340-023-040, 340-023-042 and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(3) Commercial open burning is allowed subject to OAR 340-023-040, 340-023-042 and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal, except that, unless authorized pursuant to OAR 340-023-100, all commercial open burning is prohibited in or within three (3) miles of the corporate city limits of the following cities:

(a) In Baker County, the City of Baker City;

(b) In Clatsop County, the Cities of Astoria, and Seaside;

- (c) In Crook County, the City of Prineville;
- (d) In Curry County, the City of Brookings;
- (e) In Deschutes County, the Cities of Bend and Redmond;
- (f) In Hood River County, the City of Hood River;
- (g) In Klamath County, the City of Klamath Falls;
- (h) In Lincoln County, the Cities of Lincoln City and Newport;
- (i) In Malheur County, the City of Ontario;
- (j) In Umatilla County, the Cities of Hermiston, Milton-Freewater and Pendleton;
- (l) In Union County, the City of La Grande;
- (m) In Wasco County, the City of The Dalles.

(4) Construction and Demolition open burning is allowed subject to the requirements and prohibitions of local jurisdictions, the State Fire Marshal, OAR 340-023-040, 340-023-042, and 340-023-043, except that, unless authorized pursuant to OAR 340-023-100, Construction and Demolition open burning is prohibited in or with in three (3) miles of the corporate city limits of the following cities:

- (a) In Baker County, the City of Baker City;
- (b) In Clatsop County, the City of Astoria;
- (c) In Crook County, the City of Prineville;
- (d) In Curry County, the City of Brookings;
- (e) In Deschutes County, the Cities of Bend and Redmond;
- (f) In Hood River County, the City of Hood River;
- (g) In Klamath County, the City of Klamath Falls;

(h) In Malheur County, the City of Ontario;

(i) In Umatilla County, the Cities of Hermiston, Milton-Freewater and Pendleton;

(j) In Union County, the City of La Grande;

(k) In Wasco County, the City of The Dalles.

(5) Domestic open burning is allowed subject to the requirements and prohibitions of local jurisdictions, the State Fire Marshal, and OAR 340-023-040, 340-023-042 and 340-023-043.

(6) Slash burning on forest land within open burning control areas not regulated by the Department of Forestry under the Smoke Management Plan is prohibited, except as provided in OAR 340-023-0180.

*State effective: 3/10/93; EPA effective: 4/28/1997*

#### **340-023-060 BENTON, LINN, MARION, POLK, AND YAMHILL COUNTIES**

Open burning prohibitions for Benton, Linn, Marion, Polk, and Yamhill Counties which form a part of the Willamette Valley Open Burning Control Area described in OAR 340-023-115:

(1) Industrial open burning is prohibited, except as provided in OAR 340-023-100.

(2) Agricultural open burning is allowed, subject to OAR 340-023-040, 340-023-042 and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal:

(a) Agricultural open burning within the purview of this rule will be prohibited between July 15 and September 15 unless specifically authorized by the Department on a particular day.

(b) Burning hours are during daylight hours unless otherwise set by the Department. Large piles of land clearing debris or stumps shall be handled in accordance with OAR 340-023-040(4)(c) and may be allowed, without addition of new waste material, to burn after hours and into prohibition condition days.

(3) Commercial open burning is prohibited, except as provided in OAR 340-023-100.

(4) Construction and Demolition open burning is allowed outside of special open burning control areas, subject to the requirements and prohibitions of local jurisdictions, the State Fire Marshal, OAR 340-023-040, 340-023-042 and 340-023-043. Unless authorized pursuant to OAR 340-023-100, Construction and Demolition open burning is prohibited within special open burning control areas, including the following:

(a) Areas in or within six (6) miles of the corporate city limit of:

(A) In Marion County, the Cities of Salem and Keizer;

(B) In Polk County, the City of Salem.

(b) Areas in or within three (3) miles of the corporate city limit of:

(A) In Benton County, the Cities of Albany, Corvallis and Philomath;

(B) In Linn County, the Cities of Albany, Brownsville, Harrisburg, Lebanon, Mill City, and Sweet Home;

(C) In Marion County the Cities of Aumsville, Gervais, Hubbard, Jefferson, Mill City, Mt. Angel, Silverton, Stayton, Sublimity, Turner and Woodburn;

(D) In Polk County, the Cities of Dallas, Independence, Monmouth and Willamina;

(E) In Yamhill County, the Cities of Amity, Carlton, Dayton, Dundee, Lafayette, McMinnville, Newberg, Sheridan and Willamina.

(5) Domestic open burning:

(a) As generally depicted in Figure 1 of OAR 340-023-115, domestic open burning is prohibited in the special open burning control areas named in section (4) of this rule, except open burning of yard debris is allowed beginning March first and ending June fifteenth, inclusive, and beginning October first and ending December fifteenth, inclusive, subject to OAR 340-023-040 and 340-023-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(b) Domestic open burning is allowed outside of special open burning control areas named in section (4) of this rule, subject to OAR 340-023-040, 340-023-042 and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal;

(c) No person may cause or allow to be initiated or maintained any domestic open burning other than during daylight hours between 7:30 a.m. and two hours before sunset unless otherwise specified by the Department pursuant to OAR 340-023-043.

*State effective: 3/10/93; EPA effective: 4/28/1997*

### **340-023-065 CLACKAMAS COUNTY**

Open burning prohibitions for Clackamas County:

(1) Industrial open burning is prohibited, except as provided in OAR 340-023-100.

(2) Agricultural open burning is allowed, subject to OAR 340-023-040, 340-023-042 and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal:

(a) Agricultural open burning within the purview of this rule will be prohibited between July 15 and September 15 unless specifically authorized by the Department on a particular day.

(b) Burning hours are during daylight hours unless otherwise set by the Department. Large piles of land clearing debris or stumps shall be handled in accordance with OAR 340-023-040(4)(c) and may be allowed, without addition of new waste material, to burn after hours and into prohibition condition days.

(3) Commercial open burning is prohibited, except as may be provided by OAR 340-023-100.

(4) Construction and Demolition open burning is allowed outside of special control areas, subject to OAR 340-023-040, 340-023-042 and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal. Unless authorized pursuant to OAR 340-023-100, Construction and Demolition open burning is prohibited within special control areas including the following:

(a) Areas in or within six (6) miles of the corporate city limits of Gladstone, Happy Valley, Lake Oswego, Milwaukie, Oregon City, Portland, Rivergrove, Tualatin, West Linn and Wilsonville;

(b) Areas in or within three (3) miles of the corporate city limits of Canby, Estacada, Gresham, Molalla and Sandy.

(5) Domestic open burning:

(a) As generally depicted in Figure 1A of OAR 340-023-115, domestic open burning is always prohibited within the following fire districts unless authorized pursuant to OAR 340-023-100: Clackamas County RFPD #1, that portion of Clackamas County RFPD #54 which lies within the Metropolitan Service District, that portion of Clackamas County RFPD #71 which lies west of a line extending due north of the western tip of Beebe Island in the Clackamas River, Glenmorrie RFPD #66, Gladstone, Lakegrove RFPD #57, Lake Oswego, Milwaukie, Oregon City, Oak Lodge, Portland, Riverdale RFPD #60, Rosemont RFPD #67, that part of Tualatin Valley Fire and Rescue District which lies north of I-205 and West Linn.

(b) In areas of Clackamas County generally depicted in Figure 1 of OAR 340-023-115 and not included in the area where burning is prohibited by OAR 340-023-065(5)(a), domestic open burning is prohibited except that open burning of yard debris is allowed within the following fire districts between March first and June fifteenth inclusive and between October first and December fifteenth inclusive, subject to OAR 340-023-040, 340-023-042, and 340-023-043 and the requirements and the requirements and prohibitions of local jurisdictions and the State Fire Marshal:

(A) Beaver Creek RFPD #55,

(B) Boring RFPD #59,

(C) Canby,

(D) Canby RFPD #62,

(E) That portion of Clackamas Co. RFPD #1 which lies outside the Metropolitan Service District,

(F) That portion of Clackamas RFPD #1 which lies east of a line extending due north of the western tip of Beebe Island in the Clackamas River,

(G) Happy Valley RFPD #65,

(H) Sandy RFPD #2,

(I) That part of Tualatin Valley Fire and Rescue District which lies south of I-205.

(c) Domestic open burning is allowed in all other areas of Clackamas County subject to OAR 340-023-040 and 340-023-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(d) No person shall cause or allow to be initiated or maintained any domestic open burning other than during daylight hours between 7:30 a.m. and two hours before sunset unless otherwise specified by Department pursuant to OAR 340-023-043.

*State effective: 3/10/93; EPA effective: 4/28/1997*

### **340-023-070 MULTNOMAH COUNTY**

Open burning prohibitions for Multnomah County:

(1) Industrial open burning is prohibited, except as provided in OAR 340-023-100.

(2) Agricultural open burning is allowed subject to OAR 340-023-040, 340-023-042, and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal;

(a) Agricultural open burning within the purview of this rule will be prohibited between July 15 and September 15 unless specifically authorized by the Department on a particular day.

(b) Burning hours are during daylight hours unless otherwise set by the Department. Large piles of land clearing debris or stumps shall be handled in accordance with OAR 340-023-040(4)(c) and may be allowed, without addition of new waste material, to burn after hours and into prohibition condition days.

(3) Commercial open burning is prohibited, except as may be provided by OAR 340-023-100.

(4) Construction and Demolition open burning, unless authorized pursuant to OAR 340-023-100, is prohibited west of the Sandy River but is allowed east of the Sandy River subject to OAR 340-023-040, 340-023-042 and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(5) Domestic open burning:

(a) As generally depicted in Figure 1A of OAR 340-023-115, open burning is always prohibited within the following area of Multnomah County unless authorized pursuant to OAR 340-023-100: west of a line beginning at the eastern most point where the Portland city limit meets the Multnomah-Clackamas Counties line, thence northward and eastward along the Portland city limits to Johnson Creek, thence continuing eastward and northward along Johnson Creek to the Gresham city limit, thence northward and eastward along the Gresham city limit to 182<sup>nd</sup> Avenue, thence northward along 182<sup>nd</sup> Avenue to its junction with 181<sup>st</sup> Avenue, thence northward along 181<sup>st</sup> Avenue to Sandy Boulevard, thence eastward along Sandy Boulevard to 185<sup>th</sup> Avenue, thence northward along 185<sup>th</sup> Drive and its extension to the Columbia River and the state line, but excluding that portion of western Multnomah County included in Skyline RFPD #20, Sauvie Island, Burlington Water District and all other areas in northwestern Multnomah County which are outside of Fire Protection District.

(b) As generally depicted in Figure 1 of OAR 340-023-115, domestic open burning is prohibited in areas of Multnomah County west of the Sandy River not included in the area where burning is prohibited by OAR 340-023-070(5)(a), except, that open burning of yard debris is allowed from March first and June fifteenth inclusive and between October first and December fifteenth inclusive, subject to OAR 340-023-040, 340-023-042, and 340-023-043 and the requirements and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(c) Domestic open burning is allowed east of the Sandy River subject to OAR 340-023-040, 340-023-042 and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(d) No person shall cause or allow to be initiated or maintained any domestic open burning other than during daylight hours between 7:30 a.m. and two hours before sunset unless otherwise specified by Department pursuant to OAR 340-023-043.

*State effective: 3/10/93; EPA effective: 4/28/1997*

### **340-023-075 WASHINGTON COUNTY**

Open burning prohibitions for Washington County:

(1) Industrial open burning is prohibited, except as provided in OAR 340-023-100.

(2) Agricultural open burning is allowed, subject to OAR 340-023-040, 340-023-042 and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal:

(a) Agricultural open burning within the purview of this rule will be prohibited between July 15 and September 15 unless specifically authorized by the Department on a particular day.

(b) Burning hours are during daylight hours unless otherwise set by the Department. Large piles of land clearing debris or stumps shall be handled in accordance with OAR 340-023-040(4)(c) and may be allowed, without addition of new waste material, to burn after hours and into prohibition condition days.

(3) Commercial open burning is prohibited, except as may be provided by OAR 340-023-100.

(4) Construction and Demolition open burning, unless authorized pursuant to OAR 340-023-100, is prohibited in all incorporated areas and areas within rural fire protection districts. Construction and demolition open burning is allowed in all areas subject to OAR 340-023-040, 340-023-042 and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(5) Domestic open burning:

(a) As generally depicted in Figure 1A of OAR 340-023-115, open burning is always prohibited within the following area of Washington County unless authorized pursuant to OAR 340-023-100:

(A) That portion of Tualatin Valley Fire and Rescue District north of I-205 plus the area including the cities of Tualatin, Durham, Tigard and King City, which is north of a line starting at the point where I-205 meets the Tualatin city limit, thence westward, southward, westward and finally northward along the Tualatin city limit to Highway 99W, thence northward along Highway 99W to the Tualatin River, thence westward along the Tualatin River to its intersection with the boundary of the Metropolitan Service District, thence

generally northward and westward along the Metropolitan Service District Boundary between the Tualatin RFPD and Washington County RFPD #1.

(B) That part of the Tualatin Valley Fire and Rescue District which is within the Metropolitan Service District.

(C) That part of Washington County Rural Fire Protection District #2 starting at the point where Highway 26 crosses the eastern boundary of the fire district, thence westward along Highway 26 to Cornelius Pass Road, thence northward along Cornelius Pass Road to West Union Road, thence eastward along West Union Road to the fire district boundary, thence southerly along the district boundary to the point of beginning.

(b) Excluding areas listed in subsection (a) of the section and the Tri-Cities RFPD, domestic open burning is prohibited in all municipal and rural fire protection districts of Washington County as generally depicted in Figure 1 of OAR 340-023-115, except that open burning of yard debris is allowed between March first and June fifteenth inclusive subject to OAR 340-023-040, 340-023-042, and 340-023-043 and the requirements and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(c) Domestic open burning is allowed in the Tri-Cities RFPD and in all unincorporated areas of Washington County outside of municipal or rural fire protection districts subject to OAR 340-023-040 and 340-023-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(d) No person shall cause or allow to be initiated or maintained any domestic open burning other than during daylight hours between 7:30 a.m. and two hours before sunset unless otherwise specified by Department pursuant to OAR 340-023-043.

*State effective: 3/10/93; EPA effective: 4/28/1997*

### **340-023-080 COLUMBIA COUNTY**

Open burning prohibitions for Columbia County:

(1) Industrial open burning is prohibited, except as provided in OAR 340-023-100.

(2) Agricultural open burning is allowed, subject to OAR 340-023-040, 340-023-042 and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal:

(3) Commercial open burning is prohibited, except as may be provided by OAR 340-023-100.

(4) Construction and Demolition open burning:

(a) Unless authorized pursuant to OAR 340-023-100, Construction and demolition open burning is prohibited in and within three (3) miles of the city limits of Clatskanie, Rainier, St. Helens, Scappoose, and Vernonia.

(b) Construction and Demolition open burning is allowed in all other parts of Columbia County subject to OAR 340-023-040, 340-023-042 and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(5) Domestic open burning is allowed subject to OAR 340-023-040, 340-023-042 and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

*State effective: 3/10/93; EPA effective: 4/28/1997*

### **340-023-085 LANE COUNTY**

Open burning prohibitions for Lane County. That portion of Lane County east of Range 7 West, Willamette Meridian, forms a part of the Willamette Valley Open Burning Control Area as generally described in OAR 340-023-115(5) and depicted in Figure 2:

(1) The rules and regulations of the Lane Regional Air Pollution authority apply to all open burning in Lane County, provided such rules are no less stringent than the provisions of this Division. The Lane Regional Air Pollution Authority may not regulate agricultural open burning.

(2) Industrial open burning is prohibited, except as provided in OAR 340-023-100.

(3) Agricultural open burning is allowed, subject to OAR 340-023-040, 340-023-042 and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal:

(a) Agricultural open burning within the purview of this rule will be prohibited between July 15 and September 15 unless specifically authorized by the Department on a particular day.

(b) Burning hours are during daylight hours unless otherwise set by the Department. Large piles of land clearing debris or stumps shall be handled in accordance with OAR 340-023-040(4)(c) and may be allowed, without addition of new waste material, to burn after hours and into prohibition condition days.

(4) Commercial open burning, unless authorized pursuant to OAR 340-023-100, is prohibited in Lane County east of Range 7 West Willamette Meridian and in or within three (3) miles of the city limit of Florence on the coast. Commercial open burning is allowed in the remaining areas of Lane County subject to OAR 340-023-040 and 340-023-042, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(5) Construction and Demolition open burning, unless authorized pursuant to OAR 340-023-100, is prohibited within all fire districts and other areas specified in this section but is allowed elsewhere in Lane County, subject to OAR 340-023-040, 340-023-042 and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal. Areas where open burning of construction and demolition waste is prohibited include:

(a) Bailey-Spencer RFPD;

- (b) Coburg RFPD;
- (c) Cottage Grove;
- (d) Creswell RFPD;
- (e) Crow Valley RFPD;
- (f) Dexter RFPD except that portion east of the Willamette Meridian;
- (g) Elmira-Noti RFPD except that portion west of the line between Range 6 West and Range 7 West;
- (h) Eugene Fire District;
- (i) Eugene RFPD No. 1;
- (j) Goshen RFPD;
- (k) Junction City Fire District;
- (l) Junction City RFPD;
- (m) Lane RFPD No. 1;
- (n) Lowell RFPD;
- (o) Marcola RFPD;
- (p) McKenzie RFPD, except that portion east of the Willamette Meridian;
- (q) Monroe RFPD that portion within Lane County;
- (r) Oakridge RFPD;
- (s) Pleasant Hill RFPD;
- (t) South Lane RFPD;
- (u) Springfield Fire Department and those areas protected by the Springfield Fire Department;

(v) That portion of Western Lane Forest Protection District north of Section 11, T19S, R4W and bordering the City of Eugene and /or Crow Valley, Eugene #1, Goshen and Creswell RFPDs;

(w) Willakenzie RFPD;

(x) Zumwalt RFPD;

(y) Those unprotected areas which are surrounded by or are bordered on all sides by any of the above listed fire protection districts or by Eastern Lane Forest Protection District.

(6) Domestic open burning:

(a) Domestic open burning outside the fire districts listed in section (5) of this rule is allowed subject to OAR 340-023-040, 340-023-042 and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal;

(b) Domestic open burning is prohibited within all fire districts listed in section (5) of this rule except that open burning of yard debris is allowed subject to OAR 340-023-040, 340-023-042 and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal;

(c) Refer to Lane Regional Air Pollution Authority open burning rules for specific seasons and hours for domestic open burning.

*State effective: 3/10/93; EPA effective: 4/28/1997*

### **340-023-090 COOS, DOUGLAS, JACKSON AND JOSEPHINE COUNTIES**

Open burning prohibitions for Coos, Douglas, Jackson and Josephine Counties:

(1) Open burning control areas:

(a) The Coos Bay open burning control area as generally described in OAR 340-023-115 and depicted in Figure 3 is located in Coos County;

(b) The Umpqua Basin open burning control area as generally described in OAR 340-023-115, and depicted in Figure 5, is located in Douglas County;

(c) The Rogue Basin open burning control area as generally described in OAR 340-023-115 and depicted in Figure 4, is located in Jackson and Josephine Counties.

(2) Industrial open burning is prohibited unless authorized pursuant to OAR 340-023-100.

(3) Agricultural open burning is allowed subject to OAR 340-023-040, 340-023-042, 340-023-

043 and 340-023-090(7), and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(4) Commercial open burning is prohibited within the Coos Bay, Umpqua Basin and Rogue Basin open burning control areas and within three (3) miles of the corporate city limits of Coquille, Reedsport and other areas that meet the standard in OAR 340-264-0078(1), unless authorized pursuant to OAR 340-023-100. Commercial open burning is allowed in all other areas of these counties subject to OAR 340-023-040, 340-023-042 and 340-023-043 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(5) Construction and Demolition open burning is prohibited within the Coos Bay, Umpqua Basin and Rogue Basin open burning control areas unless authorized pursuant to OAR 340-023-100. Construction and Demolition open burning is allowed in other areas of these counties subject to OAR 340-023-040, 340-023-042 and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(6) Domestic open burning is allowed subject to OAR 340-023-040, 340-023-042, 340-023-043 and 340-023-090(7), and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(7) Upon publication by EPA of notice in the Federal Register that the Medford-Ashland Air Quality Maintenance Area or the Grants Pass Urban Growth Area or the Grants Pass Urban Growth Area has failed to attain the National Ambient Air Quality Standard for PM10 by the attainment date required in the Clean Air Act, all open burning is prohibited within the Rogue Basin open burning control area during November, December, January, and February unless authorized pursuant to 340-023-100.

*State effective: 3/10/93; EPA effective: 4/28/1997*

### **340-023-100 LETTER PERMITS**

(1) Open Burning of commercial, industrial, construction or demolition waste on a singly occurring or infrequent basis or the open burning of yard debris that is otherwise prohibited, may be permitted by a letter permit issued by the Department in accordance with this rule and subject to OAR 340-023-040, 340-023-042 and 340-023-043, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal. OAR 340-014-025, 340-020-140 and 340-020-150 through 340-020-185 shall not apply.

(2) A letter permit may only be issued on the basis of a written application for disposal of material by burning which has been approved by the Department. Each application for a letter shall contain the following items:

(a) The quantity and type of material proposed to be burned;

(b) A listing of all alternative disposal methods and potential costs that have been identified

or investigated;

(c) The expected amount of time that will be required to complete the burning (not required for yard debris);

(d) The methods proposed to be used to insure complete and efficient combustion of the material;

(e) The location of the proposed burning site;

(f) A diagram showing the proposed burning site and the structures and facilities inhabited or used in the vicinity including distances thereto;

(g) The expected frequency of the need to dispose of similar materials by burning in the future;

(h) Any other information which the applicant considers relevant or which the Department may require;

(j) For open burning of yard debris:

(A) A "Hardship Permit Application" completed on a form supplied by the Department;  
and

(B) Either payment of the appropriate fee pursuant to section (11) of this rule or a "waiver request" completed on a form supplied by the Department.

(3) Upon receipt of a written application, the Department may approve the application if it is satisfied that:

(a) The applicant has demonstrated that all reasonable alternatives have been explored and no practicable alternative method for disposal of the materials exists; and

(b) The proposed burning will not cause or contribute to significant degradation of air quality.

(4) The Department may deny an application for a letter permit or revoke or suspend an issued letter permit on any of the following grounds:

(a) Any material misstatement or omission in the application or a history of such misstatements or omissions by the applicant;

(b) Any actual or projected violation of any statute, rule, regulation, order, permit, ordinance, judgment or decree.

(5) In making its determination under section (3) of this rule, the Department may consider:

(a) The conditions of the airshed of the proposed burning;

(b) The other air pollution sources in the vicinity of the proposed burning;

(c) The availability of other methods of disposal, and special circumstances or conditions that may impose a hardship on an applicant;

(d) The frequency of the need to dispose of similar materials in the past and expected in the future;

(e) The applicant's prior violations, if any;

(f) The projected effect upon persons and property in the vicinity; and

(g) Any other relevant factor.

(6) Each letter permit issued by the Department pursuant to section (2) of this rule must contain at least the following elements:

(a) The location where burning is permitted to take place.

(b) The number of actual calendar days on which burning is permitted to take place, not to exceed seven (7). Burning pursuant to a permit for yard debris must be limited to three (3) days per season unless satisfactory justification for more burning is provided by the applicant.

(c) The period during which the permit is valid, not to exceed a period of 30 consecutive days, except a permit for yard debris. The actual period in the permit must be specific to the needs of the applicant. The Department may issue specific letter permits for shorter periods.

(d) A letter permit for yard debris is valid for a single burning season or for both the spring and fall burning seasons during a calendar year, as appropriate to the application and the fee paid pursuant to the schedule in section (11) of this rule. The spring burning is from March 1 to June 15, inclusive, and the fall burning season is from October 1 to December 15, inclusive.

(e) Equipment and methods required to be used by the applicant to insure that the burning is accomplished in the most efficient manner over the shortest period of time to minimize smoke

production.

(f) The limitations, if any, based on meteorological conditions required before burning may occur. Open burning under permits for yard debris must be limited to the hours and times that limit seasonal domestic yard debris burning permitted in the county where the burning under the letter permit is to occur.

(g) Reporting requirements for both starting the fire each day and completion of the requested burning, (optional for permits for yard debris).

(h) A statement that OAR 340-023-040 and 340-023-042 are fully applicable to all burning under the permit.

(i) Such other conditions as the Department considers to be desirable.

(7) Regardless of the conditions contained in any letter permit, each letter permit, except permits for yard debris, will not be valid for more than 30 consecutive calendar days of which a maximum of seven (7) can be used for burning. The Department may issue specific letter permits for shorter periods.

(8) Letter permits are not renewable. Any request to conduct additional burning requires a new application and a new permit.

(9) For locations within Clackamas, Columbia, Multnomah and Washington Counties, letter permits may be issued only for the purpose of disposal of:

(a) Material resulting from emergency occurrences including, but not limited to floods, storms or oil spills.

(b) Material originating as yard debris which has been collected and stored by governmental jurisdictions provided that no other reasonable means of disposal are available.

(c) Yard debris excluding grass clippings and leaf piles, on the property of a private residence where the inability to burn creates a significant hardship due to:

(A) An economic burden when the estimated cost of alternative means of yard debris disposal presents a financial hardship in relation to household income and expenses of the applicant.

(B) A physical handicap, personal disability, chronic illness, substantial infirmity or other physical limitation substantially inhibiting the ability of the applicant to process or transport yard debris; or

(C) Inaccessibility of yard debris, where steepness of terrain or remoteness of the debris site makes access by processing or transportation equipment unreasonable.

(10) No person shall violate any condition, limitation, or term of a letter permit.

(11) All applications for a letter permit for yard debris shall be accompanied by a permit fee which shall be payable to the Department and become non-refundable upon issuance of the permit. The fee to be submitted is:

(a) For a single burning season, spring or fall -- \$20;

(b) For a calendar year -- \$30.

(12) The Department may waive the single season permit fee if the applicant shows that the cost of the yard debris permit presents an extreme financial hardship in relation to the household income and expenses of the applicant.

*State effective: 3/10/93; EPA effective: 4/28/1997*

### **340-023-105 FORCED AIR PIT INCINERATORS**

Forced-air pit incineration may be approved as an alternative to open burning prohibited by this Division, provided that the following conditions are met:

(1) The person requesting approval of forced-air pit incineration shall demonstrate to the satisfaction of the Department that no feasible or practicable alternative to forced-air pit incineration exists.

(2) The forced-air pit incineration facility shall be designed, installed, and operated in such a manner that visible emissions do not exceed forty percent (40%) opacity, as measured by EPA Method 9, for more than three (3) minutes out of any one (1) hour of operation following the initial thirty (30) minute startup period.

(3) The person requesting approval of a forced-air pit incineration facility shall be granted an approval of the facility after a Notice of Construction and Application for Approval is submitted pursuant to OAR 340-020-020 through 340-020-030.

(4) A forced-air pit permit for operation of a forced-air pit incineration facility shall be required and shall be based on the same conditions and requirements stipulated for letter permits in OAR 340-023-100, which is included here by reference, except that the term of the permit shall not be limited to thirty (30) days and the operation of the facility shall not be limited to seven (7) days, but both the term of the permit and the operation limit of the facility shall be specified in the permit and shall be appropriate to the purpose of the facility.

*State effective: 3/10/93; EPA effective: 4/28/1997*

## **340-023-110 RECORDS AND REPORTS**

Repealed by DEQ.

*State effective: 3/10/93; EPA effective: 4/28/1997*

## **340-023-115 OPEN BURNING CONTROL AREAS**

Generally, areas around the more densely populated locations in the state and valleys or basins which restrict atmospheric ventilation are designated "Open Burning Control Areas". The practice of open burning may be more restrictive in open burning control areas than in other areas of the state. The specific open burning restrictions associated with these open burning control areas are listed in OAR 340-023-055 through 340-023-090 by county. The general locations of open burning control areas are depicted in Figures 2 through 5 of this rule. The open burning control areas of the state are defined as follows:

- (1) All areas in or within three miles of the incorporated city limit of all cities with a population of 4,000 or more.
- (2) The Coos Bay Open Burning Control Area is located in Coos County with boundaries as generally depicted in Figure 3 of this rule. The area is enclosed by a line beginning at a point approximately 4-1/2 miles WNW of the City of North Bend, at the intersection of the north boundary of T25S, R13W, and the coastline of the Pacific Ocean; thence east to the NE corner of T25S, R12W; thence south to the SE corner of T26S, R12W; thence west to the intersection of the south boundary of T26S, R14W and the coastline of the Pacific Ocean, thence northerly and easterly along the coastline of the Pacific Ocean to its intersection with the north boundary of T25S, R13W, the point of beginning.
- (3) The Rogue Basin Open Burning Control Area is located in Jackson and Josephine Counties with boundaries as generally depicted in Figure 4 of this rule. The area is enclosed by a line beginning at a point approximately 4-1/2 miles NE of the City of Shady Cove at the NE corner of T34S, R1W, Willamette Meridian, thence south along the Willamette Meridian to the SW corner of T37S, R1W; thence east to the NE corner of T38S, R1E; thence south to the SE corner of T38S, R1E; thence east to the NE corner of T39S, R2E; thence south to the SE corner of T39S, R2E; thence west to the SW corner of T39S, R1E; thence NW along a line to the NW corner of T39S, R1W; thence west to the SW corner of T38S, R2W; thence north to the SW corner of T36S, R2W; thence west to the SW corner of T36S, R4W; thence south to the SE corner of T37S, R5W; thence west to the SW corner of T37S, R6W; thence north to the NW corner of T36S, R6W; thence east to the SW corner of T35S, R1W; thence north to the NW corner of T34S, R1W; thence east to the point of beginning.
- (4) The Umpqua Basin Open Burning Control Area is located in Douglas County with boundaries as generally depicted in Figure 5 of this rule. The area is enclosed by a line beginning at a point approximately four miles ENE of the City of Oakland, Douglas County, at the NE corner of

T25S, R5W, Willamette Meridian, thence south to the SE corner of T25S, R5W; thence east to the NE Corner of T26S, R4W; thence south to the SE corner of T27S, R4W; thence west to the SE corner of T27S, R5W; thence south to the SE corner of T30S, R5W; thence west to the SW corner of T30S, R6W; thence north to the NW corner of T29S, R6W; thence west to the SW corner of T28S, R7W thence north to the NW corner of T27S, R7W; thence east to the NE corner of T27S, R7W; thence north to the NW corner of T26, R6W; thence east to the NE corner of T26S, R6W; thence north to the NW corner of T25S, R5W; thence east to the point of beginning.

(5) The boundaries of the Willamette Valley Open Burning Control Area are generally depicted in Figures 1 and 2 of this rule. The area includes all of Benton, Clackamas, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties and that portion of Lane County east of Range 7 West.

(6) Special Control Areas are established around cities within the Willamette Valley Open Burning Control Area. The boundaries of these special control areas are determined as follows:

(a) Any area in or within three (3) miles of the boundary of any city of more than 1,000 but less than 45,000 population;

(b) Any area in or within six (6) miles of the boundary of any city of 45,000 or more population;

(c) Any area between areas established by this rule where the boundaries are separated by three (3) miles or less;

(d) Whenever two or more cities have a common boundary, the total population of these cities will determine the applicability of subsection (a) or (b) of this section and the municipal boundaries of each of the cities must be used to determine the limit of the special control area.

(7) A domestic burning ban area around the Portland metropolitan area is generally depicted in Figure 1A. This area encompasses parts of the special control area in Clackamas, Multnomah and Washington Counties. Specific boundaries are listed in OAR 340-023-065(5), 340-023-070(5) and 340-023-075(5). Domestic burning is prohibited in this area except as allowed pursuant to OAR 340-023-100.

*State effective: 3/10/93; EPA effective: 4/28/1997*

## **DIVISION 28**

### **STATIONARY SOURCE AIR POLLUTION CONTROL AND**

## PERMITTING PROCEDURES

### 340-028-1400 PURPOSE AND APPLICABILITY

Emissions of air contaminants in excess of applicable standards or permit conditions are considered unauthorized and subject to enforcement action, pursuant to OAR 340-028-1410 through 340-028-1460. OAR 340-028-1400 through 340-028-1460 apply to any source which emits air contaminants in excess of any applicable air quality rule or permit condition resulting from the breakdown of air pollution control equipment or operating equipment, process upset, startup, shutdown, or scheduled maintenance. The purpose of these rules is to:

- (1) Require that, where applicable, all excess emissions be reported by sources to the Department immediately;
- (2) Require sources to submit information and data regarding conditions which resulted or could result in excess emission;
- (3) Identify criteria to be used by the Department for determining whether enforcement action will be taken against an excess emission; and
- (4) Provide sources an affirmative defense to enforcement when noncompliance with technology-based emission limits is due to an emergency pursuant to OAR 340-028-1460.

*State effective: 9/24/93; EPA effective: 5/6/97*

### 340-028-1410 PLANNED STARTUP AND SHUTDOWN

- (1) This rule applies to any source where startup or shutdown of a production process or system may result in excess emissions, and
  - (a) which is a major source; or
  - (b) which is in a nonattainment or maintenance area for the pollutant which may constitute excess emissions; or
  - (c) from which the Department requires the application in section (2) of this rule.
- (2) The permittee shall obtain prior Department authorization of startup/shutdown procedures that will be used to minimize excess emissions. Application for approval of new procedures or modifications to existing procedures shall be submitted and received by the Department in writing at least seventy-two (72) hours prior to the first occurrence of a startup or shutdown event to which these procedures apply, and shall include the following:
  - (a) The reasons why the excess emissions during startup and shutdown cannot be avoided;
  - (b) Identification of the specific production process or system that causes the excess emissions;

(c) The nature of the air contaminants likely to be emitted, and an estimate of the amount and duration of the excess emissions; and

(d) Identification of specific procedures to be followed which will minimize excess emissions at all times during startup and shutdown.

(3) Approval of the startup/shutdown procedures by the Department shall be based upon determination that said procedures are consistent with good pollution control practices, and will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The permittee shall record all excess emissions in the upset log as required in OAR 340-028-1440(3). Approval of the startup/shutdown procedures shall not absolve the permittee from enforcement action if the approved procedures are not followed, or if excess emissions which occur are determined by the Department to be avoidable, pursuant to OAR 340-29-1450.

(4) Once startup/shutdown procedures are approved, the permittee is not required to notify the Department of a planned startup or shutdown event which may result in excess emissions unless:

(a) required by permit condition; or

(b) the source is located in a nonattainment area for a pollutant which may be emitted in excess of applicable standards.

(5) When required by subsection (4)(a) or (b) of this rule, notification shall be made by telephone or in writing as soon as possible prior to the startup or shutdown event and shall include the date and estimated time and duration of the event.

(6) The Department may revoke or require modifications to previously approved procedures at any time by written notification to the owner or operator.

(7) No startups or shutdowns resulting in excess emissions associated with the approved procedures in section (3) of this rule shall occur during any period in which an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency has been declared, or during an announced yellow or red woodstove curtailment period in areas designated by the Department as PM<sub>10</sub> Nonattainment Areas.

(8) The permittee shall immediately notify the Department by telephone of a startup or shutdown event and shall be subject to the requirements under Upsets and Breakdowns in OAR 340-028-1430 if the permittee fails to:

(a) Obtain Department approval of startup/shutdown procedures in accordance with OAR section (2) of this rule; or

(b) Notify the Department of a startup or shutdown event which may result in excess emissions in accordance with section (4) of this rule.

*State effective: 9/24/96; EPA effective: 5/6/97*

## **340-028-1420 SCHEDULED MAINTENANCE**

(1) In cases where it is anticipated that shutdown, by-pass, or operation at reduced efficiency of air pollution control equipment for necessary scheduled maintenance may result in excess emissions, prior Department authorization shall be obtained of procedures that will be used to minimize excess emissions. Application for approval of new procedures or modifications to existing procedures shall be submitted and received by the Department in writing at least 72 hours prior to the first occurrence of a maintenance event to which these procedures apply, and shall include the following:

(a) The reasons explaining the need for maintenance, including why it would be impractical to shut down the source operation during the period, and why the by-pass or reduced efficiency could not be avoided through better scheduling for maintenance or through better operation and maintenance practices;

(b) Identification of the specific production or emission control equipment or system to be maintained;

(c) The nature of the air contaminants likely to be emitted during the maintenance period, and the estimated amount and duration of the excess emissions, including measures such as the use of overtime labor and contract services and equipment, that will be taken to minimize the length of the maintenance period;

(d) Identification of specific procedures to be followed which will minimize excess emissions at all times during the scheduled maintenance.

(2) Approval of the above procedures by the Department shall be based upon determination that said procedures are consistent with good pollution control practices, and will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The permittee shall record all excess emissions in the upset log as required in OAR 340-028-1440(3). Approval of the above procedures shall not absolve the permittee from enforcement action if the approved procedures are not followed, or if excess emissions occur which are determined by the Department to be avoidable, pursuant to OAR 340-028-1450.

(3) Once maintenance procedures are approved, owners or operators shall not be required to notify the Department of a scheduled maintenance event which may result in excess emissions unless:

(a) Required by permit condition; or

(b) If the source is located in a nonattainment area for a pollutant which may be emitted in excess of applicable standards.

(4) When required by subsection (3)(a) or (b) of this rule, notification shall be made by telephone or in writing as soon as possible prior to the scheduled maintenance event and shall include the date and estimated time and duration of the event.

(5) The Department may revoke or require modifications to previously approved procedures at any time by written notification to the owner or operator.

(6) No scheduled maintenance associated with the approved procedures in section (2) of this rule, which is likely to result in excess emissions, shall occur during any period in which an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency has been declared, or during an announced yellow or red woodstove curtailment period in areas designated by the Department as PM10 Nonattainment Areas.

(7) The permittee shall immediately notify the Department by telephone of a maintenance event, and shall be subject to the requirements under Upset and Breakdowns in OAR 340-028-1430 if the permittee fails to:

(a) Obtain Department approval of maintenance procedures in accordance with section (1) of this rule; or

(b) Notify the Department of a maintenance event which may result in excess emissions in accordance with section (3) of this rule.

*State effective: 11/4/93; EPA effective: 5/6/97*

### **340-028-1430 UPSETS AND BREAKDOWNS**

(1) For upsets or breakdowns caused by an emergency and resulting in emissions in excess of technology-based standards, the owner or operator may be entitled to an affirmative defense to enforcement if:

(a) the Department is notified immediately of the emergency condition; and

(b) the owner or operator fulfills requirements outlined in the Emergency Provision in OAR 340-028-1460.

(2) In the case of all other upsets and breakdowns, the following requirements apply:

(a) For large sources, as defined by OAR 340-028-0110, the first onset per calendar day of any excess emissions event due to upset or breakdown, other than those described in section (1) of this rule, shall be reported to the Department immediately unless otherwise specified by permit condition. Based on the severity of the event, the Department will either require submittal of a written report pursuant to OAR 340-028-1440(1) and (2), or a recording of the event in the upset log as required in OAR 340-028-1440(3).

(b) The owner or operator of a small source, as defined by OAR 340-028-0110, need not report excess emissions events due to upset or breakdown immediately unless otherwise required by: permit condition; written notice by the Department; subsection (1)(a) of this rule; or if the excess emission is of a nature that could endanger public health. Based on the severity of the event, the Department will either require submittal of a written report pursuant to OAR 340-028-1440(1) and (2), or a recording of the event in the upset log as required in OAR 340-028-1440(3).

(3) During any period of excess emissions due to upset or breakdown, the Department may require that an owner or operator immediately proceed to reduce or cease operation of the equipment or facility until such time as the condition causing the excess emissions has been corrected or brought under control. Such action by the Department would be taken upon consideration of the following factors:

(a) Potential risk to the public or environment;

(b) Whether shutdown could result in physical damage to the equipment or facility, or cause injury to employees;

(c) Whether any Air Pollution Alert, Warning, Emergency, or yellow or red woodstove curtailment period exists; or

(d) If continued excess emissions were determined by the Department to be avoidable.

(4) In the event of any on-going period of excess emissions due to upset or breakdown, the owner or operator shall cease operation of the equipment or facility no later than 48 hours after the beginning of the excess emission period, if the condition causing the emissions is not corrected within that time. The owner or operator need not cease operation if he or she can obtain Department's approval of procedures that will be used to minimize excess emissions until such time as the condition causing the excess emissions is corrected or brought under control. Approval of these procedures shall be based on the following information supplied to the Department.

(a) The reasons why the condition(s) causing the excess emissions cannot be corrected or brought under control. Such reasons shall include but not be limited to equipment availability and difficulty of repair or installation;

(b) Information as required in OAR 340-028-1410(2)(b)(c), and (d).

(5) Approval of the above procedures by the Department shall be based upon determination that said procedures are consistent with good pollution control practices, and will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The permittee shall record all excess emissions in the upset log as required in section (2) of this rule. At any time during the period of excess emissions the Department may require the owner or operator to cease operation of the equipment or facility, in accordance with OAR 340-028-1430(3). In addition, approval of these procedures shall not absolve the permittee from enforcement action if the approved procedures are not followed, or if excess emissions occur that are determined by the Department to be avoidable, pursuant to OAR 340-028-1450.

*State effective: 9/24/96; EPA effective: 5/6/97*

### **340-028-1440 REPORTING REQUIREMENTS**

(1) For any excess emissions event, the Department may require the owner or operator to submit

a written excess emission report for each calendar day of the event. If required, this report shall be submitted within 15 days of the date of the event and shall include the following:

- (a) The date and time the event was reported to the Department;
- (b) Whether the event occurred during startup, shutdown, maintenance, or as a result of a breakdown or malfunction;
- (c) Information as described in OAR 340-028-1450(1) through (5);
- (d) The final resolution of the cause of the excess emissions; and
- (e) Where applicable, evidence supporting any claim that emissions in excess of technology-based limits were due to an emergency pursuant to OAR 340-028-1460.

(2) Based on the severity of event, the Department may waive the 15 day reporting requirement, and specify either a shorter or longer time period for report submittal. The Department may also waive the submittal of the written report, if in the judgement of the Department, the period or magnitude of excess emissions was minor. In such cases the owner or operator shall record the event in the upset log pursuant to section (3) of this rule.

(3) Large and small source owners or operators shall keep an upset log of all planned and unplanned excess emissions. The upset log shall include all pertinent information as required in section (1) of this rule and shall be kept by the permittee for five calendar years.

(4) At each annual reporting period specified in a permit, or sooner if required by the Department, the permittee shall submit:

- (a) A copy of the upset log entries for the reporting period; and
- (b) Where applicable, current procedures to minimize emissions during startup, shutdown, or maintenance as outlined in OAR 340-028-1410 and 340-028-1420. The owner or operator shall specify in writing whether these procedures are new, modified, or have already been approved by the Department.

*State effective: 11/4/93; EPA effective: 5/6/97*

### **340-028-1450 ENFORCEMENT ACTION CRITERIA**

In determining if a period of excess emissions is avoidable, and whether enforcement action is warranted, the Department, based upon information submitted by the owner or operator, shall consider whether the following criteria are met:

(1) Where applicable, the owner or operator submitted a description of any emergency which may have caused emissions in excess of technology-based limits and sufficiently demonstrated, through properly signed, contemporaneous operating logs, upset logs, or other relevant evidence that an emergency caused the excess emissions and that all causes of the emergency were

identified.

(2) Notification occurred immediately pursuant to OAR 340-028-1430(1)(a), (2), or (3).

(3) The Department was furnished with complete details of the event, including, but not limited to:

(a) The date and time of the beginning of the excess emissions event and the duration or best estimate of the time until return to normal operation;

(b) The equipment involved;

(c) Steps taken to mitigate emissions and corrective actions taken; and

(d) The magnitude and duration of each occurrence of excess emissions during the course of an event and the increase over normal rates or concentrations as determined by continuous monitoring or a best estimate (supported by operating data and calculations).

(4) During the period of the excess emissions event the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit.

(5) The appropriate remedial action was taken.

(6) The event was not due to negligent or intentional operation by the owner or operator. For the Department to find that an incident of excess emissions is not due to negligent or intentional operation by the owner or operator, the permittee shall demonstrate, upon Department request, that all of the following conditions were met:

(a) The process or handling equipment and the air pollution control equipment were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;

(b) Repairs or corrections were made in an expeditious manner when the operator(s) knew or should have known that emission limits were being or were likely to be exceeded. Expeditious manner may include such activities as use of overtime labor or contract labor and equipment that would reduce the amount and duration of excess emissions;

(c) The event was not one in a recurring pattern of incidents which indicate inadequate design, operation, or maintenance.

*State effective: 9/24/93; EPA effective: 5/6/97*