

LANE REGIONAL AIR ~~[POLLUTION AUTHORITY]~~ PROTECTION AGENCY

TITLE 47
Open Burning

PROPOSED AMENDMENTS

DRAFT #9

DECEMBER 18, 2007

Open burning in compliance with the rules in this Title 47 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.

Section 47-001 General Policy

In order to restore and maintain Lane County air quality in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the County, it is the policy of the Lane Regional Air ~~[Pollution Authority]~~ Protection Agency to eliminate open burning disposal practices where alternative disposal methods are feasible. As a result, all open burning is prohibited in Lane County except as expressly allowed by these rules or if exempted from these rules by Oregon Statute. Contained in these rules are the requirements for the open burning of residential, construction, demolition, commercial, and industrial waste, and forest slash waste on properties outside the Oregon Smoke Management Plan.

Section 47-005 ~~[Statutory]~~ Exemptions from These Rules

1. Statutory exemptions. Due to Oregon statutory exemptions, these rules shall not apply to the following:

- [1] A. The operation of residential barbecue equipment for the purpose of cooking food for **human consumption, except that materials described in Section 47-015-1.E shall not be** used as fuel.
- [2] B. Fires set or permitted by any public agency in the performance of its official duty for the purpose of weed abatement, prevention or elimination of a fire hazard, a hazard to public health or safety, or for the instruction of employees in the methods of fire fighting.
- [3] C. Agricultural open burning.
- [4] D. Open burning on forest land permitted under the Oregon Department of Forestry (ODF) Smoke Management Plan filed with the Secretary of State.

2. Other exemptions.

- A. Recreational fires, set for recreational purposes in designated recreational areas (such as parks, recreational campsites, and campgrounds, and on private property). Prohibited**

materials listed in Section 47-015-1.E, woody yard trimmings, leaves and grass clippings shall not be burned. Within the Eugene/ Springfield Urban Growth Boundary and within the city limits of Oakridge, these fires are prohibited on Yellow and Red Home Wood Heating Advisory days set by LRAPA during the months of November, December, January, and February. [NOTE: LOCAL ORDINANCES FROM MUNICIPALITIES, RULES FROM LOCAL FIRE DISTRICTS, AND RULES FROM OREGON DEPARTMENT OF FORESTRY AND STATE FIRE MARSHAL MAY BE MORE PROHIBITIVE.]

- B. Outdoor barbecuing, when food is cooked by a fire that is sized proportionally to the amount of food being cooked, connected [with] to a group outing[s], festival[s], fair[s] or similar occasion[s], is allowed, except that prohibited materials listed in Section 47-015-1.E and commercial, industrial, construction, and demolition waste shall not be burned.

Section 47-005 Amended 10/12/99

Section 47-010 Definitions

The following definitions apply to this title, and additional general definitions can be found in Title 12 of these Rules and Regulations.

- "Agricultural open burning" means the open burning of vegetative "agricultural wastes," which are materials actually generated or used by an agricultural operation.
- "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] the sale of 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 or structures customarily provided in conjunction with the agricultural operation.
- "Agricultural waste" means any vegetative material actually generated or used by an agricultural operation but excluding those materials described in Section 47-015-1.E.
- "Bonfire" means a controlled outdoor fire held for celebratory, ceremonial, religious, or entertainment purposes.
- "Commercial open burning" means the open burning of "commercial wastes," which are materials actually generated or used by a commercial operation including removed and transported materials, and excluding those materials described in Section 47-015-1.E..
- "Construction open burning" means the open burning of "construction wastes," which are materials actually resulting from or produced by a building or construction project, excluding those materials described in Section 47-015-1.E. The open burning of construction waste materials which are actually resulting from or produced by a building or construction project, excluding those materials described in Section 47-015-1.E., that are transported from tax lot of origin is Commercial open burning.

- "Demolition open burning" means the open burning of "demolition wastes," which are materials 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, or land clearing for site preparation for development, excluding those materials described in Section 47-015-1.E. The open burning of demolition waste materials which are 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, or land clearing for site preparation for development, excluding those materials described in Section 47-015-1.E., that are transported from tax lot of origin is Commercial open burning.
- "Eugene-Springfield Urban Growth Boundary (ESUGB)" means the area within and around the cities of Eugene and Springfield, as described in the currently acknowledged Eugene-Springfield Metropolitan Area General Plan, as amended.
- "Forest slash open burning" means burning of vegetative debris and refuse on forest land related to the growing and/or harvesting of forest tree species where there is no change in the use of the land from timber production. Forest slash open burning does not include burning for commercial or individual use, or for any other type of land clearing not related to the growing and harvesting of forest tree species.
- "Garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and serving of food.
- "Industrial open burning" means the open burning of "industrial wastes," which are materials produced as a direct result of any manufacturing or industrial process, excluding those materials described in Section 47-015-1.E.
- "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.
- "Leaves" means needle or leaf materials which have fallen from trees, shrubs, or plants on the property around a dwelling unit.
- "Nuisance" means a substantial and unreasonable interference with another's use and enjoyment of real property, or the substantial and unreasonable invasion of a right common to members of the general public. (See Title 12 of these Rules and Regulations)
- "Open burning" includes burning in open fires, burn barrels, incinerators which do not meet emission limitations specified in ~~[Section 30-020]~~ Title 30 of these Rules and Regulations, and 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.
- "Recreational fire" means a small fire (combustible pile no larger than 3 feet in diameter and 2 feet in height), limited to cooking fires, and campfires, or fires lit in Chimineas, patio fireplaces, fire pits, or other similar devices using charcoal, natural gas, propane, manufactured firelogs, or clean dry natural firewood as fuel, and which occurs in designated areas on public lands or on private property. The fire cannot serve as a disposal fire for waste materials, including woody yard trimmings, leaves, and grass clippings, or materials listed in 47-015-1.E.

- "Residential open burning" means the open burning of clean, woody~~[;]~~ yard trimmings ~~[and prunings]~~ which are actually generated in or around a dwelling for four (4) or fewer family living units. Once this material is removed from the property of origin it becomes commercial waste. Such materials actually generated in or around a dwelling of more than four (4) family living units are commercial wastes.
- "Responsible person" means each person who is in ownership, control, or custody of the property on which the open burning occurs, including any tenant thereof; or who is in ownership, control, or custody of the materials which are burned; or any person who causes or allows open burning to be initiated or maintained.
- "Salvage," as used in open burning rules, means the recovery, processing or use of woody debris for purposes including, but not limited to, energy production (such as fire wood or fuel), fiber production (such as soil amendments or mulch), or as a raw material for chemical or manufacturing processes.
- "Woody Yard Trimmings" means woody limbs, branches and twigs, with any attached leaves, which have been cut from or fallen from trees or shrubs from the property around a dwelling unit.

Section 47-010 Amended 10/12/99

Section 47-015 Open Burning Requirements

1. General requirements--to be met by all open burning conducted in accordance with these Rules and Regulations:
 - A. All open burning shall be constantly attended by a responsible person or an expressly authorized agent, until extinguished.
 - B. It shall be the duty of each responsible person to promptly extinguish any burning which is in violation of any rule of the LRAPA Board or of any permit issued by the ~~[Authority]~~ Agency.
 - C. No person shall cause, or allow to be initiated or maintained, any open burning which is prohibited by the burning advisory ~~[because of meteorological or air quality conditions]~~ issued by the Agency.
 - D. No person shall cause, or allow to be initiated or maintained, any open burning which creates a ~~[private or public]~~ nuisance or a hazard to public safety.
 - E. No person shall cause, or allow to be initiated or maintained, open burning of any garbage, plastics, wire insulation, automobile parts, asphalt, petroleum by-products, petroleum-treated materials, rubber products, 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, noxious odors, or hazardous air contaminants.

- F. To promote efficient burning and prevent excessive emissions of smoke, each responsible person shall assure that all combustible material is dried to the extent practicable and loosely stacked or windrowed to eliminate dirt, rocks and other non-combustible materials; and periodically restack or feed the burning pile to enhance combustion.
- G. 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 340-94-040**. The [Authority] Agency shall be notified by the responsible person prior to such burning.
- H. ~~[Fires involving materials less than three (3) cubic yards of volume, set for recreational purposes in designated recreational areas (such as parks, recreational campsites, and campgrounds) are allowed, except that prohibited materials listed in Section 47-015-1.E shall not be burned.]~~ All burning shall be conducted in accordance with local fire safety regulations, including required minimum distances from structures.
- ~~[I. Outdoor barbecuing connected with group outings, festivals, fairs or similar occasions is allowed, except that prohibited materials listed in Section 47-015-1.E shall not be burned.]~~

2. Residential Open Burning Requirements

The residential open burning season is October [15] 1 through June 15, with the following restrictions:

- A. Residential open burning is allowed only on approved burning days, between sunrise and sunset, with a valid fire permit (if required by fire district). The [beginning] start and end times for burning vary[ies] and [is] are set as part of the daily burning advisory[; however, fires must always be out by sunset].
- B. All open burning is prohibited within the Eugene city limits.
- C. All open burning is prohibited within the Springfield city limits, except that burning of woody yard trimmings is allowed on lots of one-half acre or more on approved burn days from March 1 through June 15 and from October 1 through October 31.
- D. Within the ESUGB, burning is prohibited if required by local fire codes.
- E. Residential open burning outside the city limits of Eugene and Springfield but within the Eugene-Springfield Urban Growth Boundary is prohibited except that burning of woody yard trimmings is allowed on lots of one-half acre or more on approved burn days from March 1 through June 15 and from October 1 through October 31. [permitted subject to the general requirements of Section 47-015-1, with the following restrictions:
 - ~~(1) The burning of yard debris is limited to the woody yard trimmings from trees and shrubs growing upon the same premises where the burning occurs;~~
 - ~~(2) Open Burning of leaves and grass clippings is prohibited; and~~

~~(3) The premises upon which such burning is to take place must be a private lot, as identified in the Lane County tax records, of one half acre in size or more.]~~

F. Residential open burning of woody yard trimmings, leaves and grass clippings is allowed within the fire districts identified below:

- (1) Bailey-Spencer RFPD
- (2) Coburg RFPD
- (3) Cottage Grove/South Lane Fire District
- (4) Creswell RFPD
- (5) Dexter RFPD west of the Willamette Meridian
- (6) Eugene RFPD #1
- (7) Goshen RFPD
- (8) Hazeldell RFPD
- ([8]9) Junction City Fire District
- ([9]10) Junction City RFPD
- (1[0]1) Lane County Fire District #1
- (1[1]2) Lane RFPD #1 outside the ESUGA
- (1[2]3) Lowell RFPD
- (1[3]4) Marcola RFPD
- (1[4]5) McKenzie RFPD outside the ESUGA
- (1[5]6) Monroe RFPD, that portion within Lane County
- (1[6]7) Oakridge RFPD
- (1[7]8) Pleasant Hill RFPD
- (1[8]9) Santa Clara RFPD outside the ESUGA
- (20) Siuslaw RFPD
- (21[9]) Westfir RFPD
- (2[0]2) Willakenzie RFPD
- (2[1]3) Zumwalt RFPD

G. Residential open burning of woody yard trimmings, leaves, and grass clippings is allowed in Lane County, outside of those fire districts listed in 47-015-2.F, on approved burn days from October 1 through June 15.

(Note: Some fire districts require burning permits. Fire districts may restrict burning whenever fire danger dictates. Persons wishing to conduct residential open burning should check first with their fire district.)

~~[G. Residential open burning is allowed year-round outside of the affected areas defined in 47-015-2.B through F of this section.]~~

H. Failure to conduct residential open burning in accordance with this section is a violation of these rules and may be cause for assessment of civil penalties. Citations will be issued by authorized enforcement agents to responsible person(s) ~~[upon site inspection]~~ where residential open burning rules are violated pursuant to this section.

3. Construction/Demolition Open Burning Requirements
 - A. Construction/demolition open burning is prohibited inside the ESUGB.
 - B. Construction/demolition open burning is prohibited inside the affected areas described in 47-015-2.F, unless authorized pursuant to Section 47-020.
 - C. Construction/demolition open burning is allowed elsewhere in Lane County, subject to the general requirements of Section 47-015-1.
4. Commercial Open Burning Requirements
 - A. Commercial open burning is prohibited inside the ESUGB.
 - B. Commercial open burning is prohibited elsewhere, unless authorized pursuant to Section 47-020.
5. Industrial Open Burning Requirements
 - A. Industrial open burning is prohibited inside the ESUGB.
 - B. Industrial open burning is prohibited elsewhere, unless authorized pursuant to Section 47-020.
6. Forest Slash Open Burning
 - A. Forest slash open burning in areas covered by the Oregon Smoke Management Plan is regulated by the ODF pursuant to ORS 477.515.
 - B. Forest slash open burning in Lane County which is in areas outside the Oregon Smoke Management Plan is treated by LRAPA as follows:
 - (1) Forest slash open burning is prohibited inside the ESUGB.
 - (2) Forest slash open burning is prohibited inside the affected areas described in 47-015-2.F, unless authorized pursuant to Section 47-020.
 - (3) Forest slash open burning elsewhere in Lane County, on properties which are not covered by the ODF Smoke Management Plan, is prohibited unless authorized pursuant to Section 47-020.
 - (4) Forest slash open burning will be coordinated with the ODF [~~East Lane~~] South Cascade and Western Lane districts and will occur as consistently as possible with slash burning advisories issued by the ODF.
 - (5) A written plan, approved by the ODF, is required under the Forest Practices Act (ORS 527) when burning is to be conducted:

- (a) within 100 feet of type D or F streams (domestic water supply or fish-bearing streams), lakes or significant wetlands (see **OAR 629-605-0170(1)(a) and 629-615-0300(3)**); or
- (b) on highly erosive soils.

The ODF should be contacted for all Forest Practices Act requirements.

Section 47-015 Amended 10/26/01

Section 47-020 Letter Permits

1. Open burning of commercial, industrial, construction, demolition, or forest slash wastes on a **singly occurring or infrequent basis, which is otherwise prohibited, and a bonfire held for a single event**, may be permitted by a letter permit issued by the [Authority] Agency in accordance with this rule and subject to the general requirements in Section 47-015-1.
2. Prescribed burning of standing vegetation for the purpose of species or wetland conversion, pursuant to federal or state laws or programs to promote or enhance habitat for indigenous species of plants or animals, which is otherwise prohibited, may be permitted by a letter permit issued by the [Authority] Agency in accordance with section 47-020. These permits require a permit fee of \$100.
3. Prior to any burning, the applicant must also obtain a valid fire permit issued by the fire permit issuing agency having jurisdiction.
4. Permits issued for open burning other than prescribed burning of standing vegetation (47-020-2) require a permit fee of \$4 per cubic yard, with a minimum fee of \$50.
5. The following factors shall be evaluated in determining whether a letter permit will be approved or denied:
 - A. The quantity, type, and combustibility of the materials proposed to be burned;
 - B. The costs and practicability of alternative disposal methods, including on-site and landfill disposal and salvage;
 - C. The seasonal timing and expected duration of the burn;
 - D. The willingness and ability of the applicant to promote efficient combustion by using heavy equipment, fans, pit incineration, or other appropriate methods;
 - E. The location of the proposed burn site with respect to potential adverse impacts;
 - F. The expected frequency of the need to dispose of materials by burning in the future;
 - G. Any prior open burning violations by the applicant;

- H. Any additional relevant information.
6. Upon receipt and review of the required information, the [Authority] Agency 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 material exists;
 - B. The proposed burning will not cause or contribute to significant degradation of air quality;
 - C. There will be no actual or projected violation of any statute, rule, regulation, order, permit, ordinance, judgment, or decree.
7. The [Authority] Agency may revoke or suspend an issued letter permit, with no refund of the fee, via written or verbal notice, on any of the following grounds:
- A. Any material misstatement or omission in the required application information;
 - B. If the conditions of the permit are being violated;
 - C. Any actual or projected violation of any statute, rule, regulation, order, permit, ordinance, judgment, or decree;
 - D. Any other relevant factor.
8. Failure to conduct open burning according to the conditions, limitations, or terms of a letter permit, or any open burning in excess of that permitted by the letter permit, shall be a violation of the permit and shall be cause for assessment of civil penalties or for other enforcement action by the [Authority] Agency.
9. Each letter permit issued by the [Authority] Agency pursuant to this rule shall contain at least the following elements:
- A. The location at which the burning is permitted to take place;
 - B. A description of the material that may be burned;
 - C. The calendar period during which the burning is permitted to take place;
 - D. The equipment and methods required to be used by the applicant to insure efficient burning;
 - E. The limitations, if any, based upon meteorological conditions required before burning may occur;
 - F. Reporting requirements for both starting the fire and completion of the requested burning;
 - G. A statement that Section 47-015-1 is fully applicable to all burning under the permit;

- H. Such other conditions that the [Authority] Agency considers to be desirable.
10. Letter permits issued by the [Authority] Agency pursuant to this rule shall be forwarded to the fire permit issuing agency having jurisdiction.
- ~~[11. Letter permits are valid only for the specified burning period and shall not be renewable unless there were no approved burning days during that period. Any requests to conduct additional burning shall require a new permit.]~~

Section 47-020 Amended 10/12/99

Section 47-030 Summary of Seasons, Areas, and Permit Requirements for Open Burning

Type of Burning	Inside City Limits of Eugene	Inside City Limits of Springfield	Elsewhere Inside the ESUGB	Inside Affected Fire Districts and Outside ESUGB	All Other Areas
Residential Open Burning (Section 47-015-2)	Prohibited by City Ordinance and by LRAPA Section 47-015-2.B	Prohibited by City Ordinance, except that, between October 15 and June 15, tree trimmings and shrub prunings, only, may be burned on lots of one-half acre or greater in size. Burning of grass clippings and fallen leaves is prohibited. Also prohibited by LRAPA Section 47-015-2.C	Prohibited by LRAPA Title 47, except that, between October 15 and June 15, tree trimmings and shrub prunings, only, may be burned on lots of one-half acre or greater in size. Burning of grass clippings and fallen leaves is prohibited.	Burning of woody yard trimmings, leaves, and grass clippings is allowed between October 15 and June 15 on approved burning days with a valid permit from the local fire district (where required by fire district)	Burning of clean wood and yard debris is allowed year round on approved burning days with a valid permit from the local fire district (where required by fire district)
Construction/ Demolition Open Burning (Section 47-015-3)	Burning is prohibited by city ordinance and by LRAPA Section 47-015-3	Burning is prohibited by city ordinance and by LRAPA Section 47-015-3	Burning is prohibited by LRAPA Section 47-015-3	Burning is prohibited, except by letter permit from LRAPA	Burning of approved materials is allowed year round on approved burning days with a valid permit from the local fire district (where required by fire district)
Commercial Open Burning (Section 47-015-4)	Burning is prohibited by city ordinance and by LRAPA Section 47-015-4	Burning is prohibited by city ordinance and by LRAPA Section 47-015-4	Burning is prohibited by LRAPA Section 47-015-4	Burning is prohibited, except by letter permit from LRAPA	Burning is prohibited, except by letter permit from LRAPA
Industrial Open Burning (Section 47-015-5)	Burning is prohibited by city ordinance and by LRAPA Section 47-015-5	Burning is prohibited by city ordinance and by LRAPA Section 47-015-5	Burning is prohibited by LRAPA Section 47-015-5	Burning is prohibited, except by letter permit from LRAPA	Burning is prohibited, except by letter permit from LRAPA
Forest Slash Open Burning (Section 47-015-6) <i>Except on lands included in the ODF Smoke Management Plan</i>	Burning is prohibited by city ordinance and by LRAPA Section 47-015-6	Burning is prohibited by city ordinance and by LRAPA Section 47-015-6	Burning is prohibited by LRAPA Section 47-015-6	Burning is prohibited, except by letter permit from LRAPA	Burning is prohibited, except by letter permit from LRAPA or Under the ODF Smoke Management Plan

General open burning requirements are contained in section 47-015. In case of apparent conflict between this summary and the text of section 47-001 through 47-020, inclusive, the text shall apply.

Section 47-030 Amended 10/26/01