

WAC 173-430-044 Additional requirements for burning field or turf grasses grown for seed. Ecology will proceed with the process to certify alternatives to burning as identified in RCW 70.94.6532(3). In addition to the certification process, ecology is also limiting the number of acres allowed to be burned as specified in RCW 70.94.6532(4).

(1) Beginning in 1997 and until approved alternatives become available, each farmer is limited to burning no more than one-third of the number of acres in grass seed production on May 1, 1996. "In production" means planted, growing and under the control of the farmer.

Without regard to any previous burn permit history, in 1996, each farmer shall be limited to burning the greater of:

(a) Two-thirds of the number of acres the farmer burned under a valid permit issued in 1995; or

(b) Two-thirds of the number of acres in grass seed production on May 1, 1996. "In production" means planted, growing and under the control of the farmer.

(2) Exemptions to the requirements for burning of field and turf grasses grown for seed (subsection (1) of this section). A farmer may request an exemption for extraordinary circumstances, such as property where a portion(s) of the field is oddly shaped or where the slope is extremely steep. This provision does not apply to WAC 173-430-045, Alternatives to burning field or turf grasses grown for seed. Under this subsection, relief from the acreage/emissions reduction requirements of subsection (1) of this section is limited to no more than five percent of the acreage in production on May 1, 1996, and is also subject to the following provisions:

(a) The exemption request must be certified by an agronomic professional;

(b) The farmer must be able to show full compliance with the emissions reductions in subsection (1) of this section for the acreage not exempted; and

(c) The farmer must be in full compliance with permit requirements for other crops under WAC 173-430-040.

(3) Measurement for emission reduction for grass seed field and turf grass. Ecology will use acres as the basis for determining emission reductions as provided by RCW 70.94.6532, until another method(s) is shown to be better and meets with the intent of RCW 70.94.6532(4). Ecology will investigate alternate methods, as they become available. If ecology finds that an alternate method is appropriate and meets the criteria, it may certify this method using an administrative order.

(4) Ecology or the local air authority may provide for trading of permits using the method described in this subsection. This trading system uses a straight transfer of acres, a transfer requiring mandatory compensation, or a combination of both. If ecology or the local air authority finds that emissions resulting from trading are creating a health impact, as defined by ecology or the local air authority, the trading system, once created, may be dissolved. This provision does not apply to WAC 173-430-045, Alternatives to burning field or turf grasses grown for seed.

(a) Ecology or the local air authority may develop a system that allows the trading of permits by:

(i) Adding a signed transfer line to the written permit that provides for a signature for the current holder of the permit;

(ii) Providing a tracking system that identifies the current holder of the permit, that identifies when the permit was last used to

allow burning of acreage, and that allows the name of the holder to be changed if the transfer line is signed by the current holder;

(iii) Requiring that the new holder of the permit must turn in the permit with the signed transfer line at least sixty days before the new holder plans to burn; and

(iv) Assuring that the permits are used only once in a calendar year.

(b) By signing the transfer line on the permit the permit holder must indicate that he or she understands that the acres transferred may no longer be burned, that a permit for the acres transferred will not be issued to the signing permit holder in future years, and that the acres being transferred were not already burned during the calendar year during which the transfer takes place.

(c) Ecology and the local air authorities may add restrictions to the transfer of permits closer to areas with higher population densities.

(d) Only permits for acreage which has not yet been burned may be transferred or traded. The seller of the permit is responsible for permanently reducing the acreage burned by the amount of acreage transferred from January 1st of the year during which the transaction takes place.

(e) Acreage that is exempted under subsection (5) of this section is not eligible for the trading system.

(f) The authorities are encouraged to work together to use the same system and to allow trading between authority jurisdictions so as to allow the grass seed growers to adjust to the two-thirds overall reduction in acres permitted for burning as easily as possible.

(5) Alternate open burning practices for field and turf grass grown for seed. Ecology acknowledges that there may be practices that involve some burning, but which produce emissions quantifiably below those of open field burning. If ecology finds that a practice involves open burning and still substantially reduces emissions below open field burning, ecology may certify the alternate burning practice(s) by administrative order. Any certified practice may be used to satisfy the acreage/emissions reduction requirements of subsection (1) of this section provided:

(a) The acreage application of the practice is adjusted to reflect effectiveness in reducing emissions so as to meet or exceed the emissions reduction required by subsection (1) of this section; and

(b) In no case will the emission reduction requirement for the field and turf grass grown for seed be less than that required in subsection (1) of this section.

[Statutory Authority: 2010 c 70, RCW 70.94.6528 and *Ted Rasmussen Farms, LLC v. State of Washington, Department of Ecology*, Docket # 22989-1-III. WSR 10-23-049 (Order 10-05), § 173-430-044, filed 11/10/10, effective 12/11/10.]