



DEPARTMENT OF
ECOLOGY
State of Washington

Concise Explanatory Statement

Chapter 173-430 WAC Agricultural Burning

Summary of rulemaking and response to comments

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Publication and Contact Information

This report is available on the Department of Ecology's website at <https://fortress.wa.gov/ecy/publications/SummaryPages/1902003.html>

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Concise Explanatory Statement

Chapter 173-430 WAC Agricultural Burning

Air Quality Program

Washington State Department of Ecology

Olympia, Washington

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Introduction

The purpose of a Concise Explanatory Statement is to:

- Meet the Administrative Procedure Act (APA) requirements for agencies to prepare a Concise Explanatory Statement (RCW 34.05.325).
- Provide reasons for adopting the rule.
- Describe any differences between the proposed rule and the adopted rule.
- Provide Ecology's response to public comments.
- This Concise Explanatory Statement provides information on The Washington State Department of Ecology's (Ecology) rule adoption for:

Title: Agricultural Burning

WAC Chapter(s): 173-430

Adopted date: April 12 2019.

Effective date: May 13, 2019.

To see more information related to this rulemaking or other Ecology rulemakings please visit our website: <https://ecology.wa.gov/About-us/How-we-operate/Laws-rules-rulemaking>.

Reasons for Adopting the Rule

The Washington State Auditor's Office performed an accountability audit of Ecology from July 1, 2014 to June 30, 2015 and issued a Management Letter dated October 24, 2016 with their recommendations. We revised Chapter 173-430 WAC based on their recommendations. The State Auditor's Office will review the status of this matter during a future audit. The rest of the changes were to avoid confusion, make technical clarifications, correct errors and improve readability.

Ecology and the Agricultural Burning Task Force adjusted the agricultural burning fees and agricultural burning fee distribution in 2012-2013, following the process specified in WAC 173-430-042. We revised the fees and fee distribution tables in WAC 173-430-041 with the current fee schedules to avoid confusion.

We are changing the fund transfer schedule in WAC 173-430-080 to a schedule that works better for the Conservation Districts. We also revised rule language in WAC 173-430-080 to comply with the Auditor's recommendations about database trainings and records maintenance.

We are revising Chapter 173-430 WAC to be in alignment with current agricultural burning practices.

Differences Between the Proposed Rule and Adopted Rule

RCW 34.05.325(6)(a)(ii) requires Ecology to describe the differences between the text of the proposed rule as published in the Washington State Register and the text of the rule as adopted, other than editing changes, stating the reasons for the differences.

There are no differences between the proposed rule filed on December 4, 2018 and the adopted rule filed on April 12, 2019.

List of Commenters and Response to Comments

Ecology received one comment during the proposal phase of rulemaking for chapter 173-430 WAC Agricultural Burning. The comment was from Brenda Blanchfield regarding the disposal of apple maggot brush.

Comment From: Brenda Blanchfield

Consider a review by the Department of Agriculture, particularly regarding pest control. The description of Agriculture for burning is too narrow. As it is worded, it only includes a farmer who has a tax statement declaring so. When government must manage a control burn, as in apple maggot brush, it is not currently considered. Please address Pest control brush, regardless conducted by local government or farmer owned property. The Dept of Ag. needs to review the definition with the control measures allowed for local government as well as farmers. Agriculture burning should be allowed for removing agriculture, even if it is going into development because it is removing agriculture. Please reconsider the ruling preventing a farmer from burning the brush even if he is not replanting. The UGA is isolated from participating in the county, unincorporated programs, according to the rule. Nor can they participate in the City or Urban program. The rule is short sited not allowing the UGA to haul their brush to areas outside the UGA, even though they are county residents. Their may be some way to address a mechanism for this population to manage their material. Currently the only think is to backyard compost or garbage. This is not a well thought out ruling, because it does not provide any way for people living in this designated area to manage their material.

Response To: Brenda Blanchfield

Thank you for your comment regarding our rulemaking on WAC 173-430 Agricultural Burning. This rulemaking is for field and pile burning and the changes are for fee structures and burn program administration. We are not changing the definition of Agricultural Burning. Here is a link to Washington State Department of Agriculture's Apple Maggot page that provides disposal alternatives for brush: <https://agr.wa.gov/plantsinsects/insectpests/applemaggot/default.aspx>.