

Senate Bill 698

Sponsored by Senator FERRIOLI

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Changes "field burning" and "open field burning" to "thermal field sanitation" for provisions relating to air quality. Reduces amount of acreage allowed to be propane flamed.

A BILL FOR AN ACT

1
2 Relating to thermal field sanitation; amending ORS 307.390, 307.391, 468.140, 468A.100, 468A.135,
3 468A.550, 468A.555, 468A.560, 468A.580, 468A.585, 468A.590, 468A.595, 468A.600, 468A.605,
4 468A.610, 468A.615, 468A.620, 468A.992, 476.010, 476.380, 478.001, 478.960 and 496.340.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 307.390 is amended to read:

7 307.390. Mobile field incinerators owned by farmers or by groups of farmers that are exclusively
8 used for sanitizing grass seed fields by means other than [*open field burning*] **thermal field sani-**
9 **tation** shall be exempt from taxation if they are purchased within five years after they are certified
10 as a feasible alternative to [*open field burnings*] **thermal field sanitation** by the Department of
11 Environmental Quality pursuant to ORS 468A.555 to 468A.620 and 468A.992.

12 **SECTION 2.** ORS 307.391 is amended to read:

13 307.391. Radio communications equipment, meteorological equipment or other tangible personal
14 property used in connection with the operation of the [*field burning*] **thermal field sanitation**
15 smoke management program established under ORS 468A.555 to 468A.620 and 468A.992 is exempt
16 from ad valorem property taxation.

17 **SECTION 3.** ORS 468.140 is amended to read:

18 468.140. (1) In addition to any other penalty provided by law, any person who violates any of the
19 following shall incur a civil penalty for each day of violation in the amount prescribed by the
20 schedule adopted under ORS 468.130:

21 (a) The terms or conditions of any permit required or authorized by law and issued by the De-
22 partment of Environmental Quality or a regional air quality control authority.

23 (b) Any provision of ORS 164.785, 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to
24 454.535, 454.605 to 454.755, ORS chapter 467 and ORS chapters 468, 468A and 468B.

25 (c) Any rule or standard or order of the Environmental Quality Commission adopted or issued
26 pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755,
27 ORS chapter 467 and ORS chapters 468, 468A and 468B.

28 (d) Any term or condition of a variance granted by the commission or department pursuant to
29 ORS 467.060.

30 (e) Any rule or standard or order of a regional authority adopted or issued under authority of
31 ORS 468A.135.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (f) The financial assurance requirement under ORS 468B.390 and 468B.485 or any rule related
 2 to the financial assurance requirement under ORS 468B.390.

3 (2) Each day of violation under subsection (1) of this section constitutes a separate offense.

4 (3)(a) In addition to any other penalty provided by law, any person who intentionally or
 5 negligently causes or permits the discharge of oil into the waters of the state shall incur a civil
 6 penalty not to exceed the amount of \$20,000 for each violation.

7 (b) In addition to any other penalty provided by law, the following persons shall incur a civil
 8 penalty not to exceed the amount of \$10,000 for each day of violation:

9 (A) Any person who violates the terms or conditions of a permit authorizing waste discharge
 10 into the air or waters of the state.

11 (B) Any person who violates any law, rule, order or standard in ORS 448.305, 454.010 to 454.040,
 12 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B re-
 13 lating to air or water pollution.

14 (C) Any person who violates the provisions of a rule adopted or an order issued under ORS
 15 459A.590.

16 (4) In addition to any other penalty provided by law, any person who violates the provisions of
 17 ORS 468B.130 shall incur a civil penalty not to exceed the amount of \$500 for each day of violation.

18 (5) Subsection (1)(c) and (e) of this section does not apply to violations of motor vehicle emission
 19 standards which are not violations of standards for control of noise emissions.

20 (6) Notwithstanding the limits of ORS 468.130 (1) and in addition to any other penalty provided
 21 by law, any person who intentionally or negligently causes or permits [*open field burning*] **thermal**
 22 **field sanitation** contrary to the provisions of ORS 468A.555 to 468A.620 and 468A.992, 476.380 and
 23 478.960 shall be assessed by the department a civil penalty of at least \$20 but not more than \$40 for
 24 each acre [*so burned*] **thermally sanitized**. Any fines collected by the department pursuant to this
 25 subsection shall be deposited with the State Treasurer to the credit of the General Fund and shall
 26 be available for general governmental expense. As used in this subsection, [*“open field burning”*]
 27 **“thermal field sanitation”** does not include propane flaming of mint stubble.

28 **SECTION 4.** ORS 468A.100 is amended to read:

29 468A.100. As used in ORS 468A.010 and 468A.100 to 468A.180, unless the context requires oth-
 30 erwise:

31 (1) “Board of directors” means the board of directors of a regional air quality control authority.

32 (2) “Governing body” means the county court or city legislative body.

33 (3) “Participating city” or “participating county” means a city or county or part of a county,
 34 or combination thereof, meeting the population requirements of ORS 468A.105 or having had such
 35 requirements waived under ORS 468A.110 that has joined with other eligible cities or counties or
 36 parts of counties to form a regional air quality control authority.

37 (4) “Regional authority” means a regional air quality control authority established under the
 38 provisions of ORS 468A.105.

39 (5) **“Thermal field sanitation” means the burning of any grass field, grain field, pasture,**
 40 **rangeland or other field by open burning or by use of mobile equipment or flaming equipment**
 41 **on any land or vegetation.**

42 **SECTION 5.** ORS 468A.135 is amended to read:

43 468A.135. (1) When authorized to do so by the Environmental Quality Commission, a regional
 44 authority formed under ORS 468A.105 shall exercise the functions relating to air pollution control
 45 vested in the commission and the Department of Environmental Quality by ORS 468.020, 468.035,

1 468.065, 468.070, 468.090, 468.095, 468.120, 468.140, 468A.025, 468A.040, 468A.050, 468A.055, 468A.065,
 2 468A.070 and 468A.700 to 468A.755 insofar as such functions are applicable to the conditions and
 3 situations of the territory within the regional authority. The regional authority shall carry out these
 4 functions in the manner provided for the commission and the department to carry out the same
 5 functions. Such functions may be exercised over both incorporated and unincorporated areas within
 6 the territory of the regional authority, regardless of whether the governing body of a city within the
 7 territory of the region is participating in the regional authority.

8 (2) No regional authority is authorized to establish or alter areas or to adopt any rule or
 9 standard that is less strict than any rule or standard of the commission. The regional authority must
 10 submit to the commission for its approval all air quality standards adopted by the regional authority
 11 prior to enforcing any such standards.

12 (3) Subject to ORS 468A.140, 468A.145 and 468A.165, when a regional authority is exercising
 13 functions under subsection (1) of this section, the commission and the department shall not exercise
 14 the same functions in the same territory. The regional authority's jurisdiction shall be exclusive.
 15 The regional authority shall enforce rules and standards of the commission as required to do so by
 16 the commission.

17 (4) The commission and the regional authorities may regulate, limit, control or prohibit by rule
 18 all air contamination sources not otherwise exempt within their respective jurisdictions. However,
 19 *[field burning]* **thermal field sanitation** and forestland burning shall be regulated by the commis-
 20 sion and fire permit agencies as provided in ORS 468A.555 to 468A.620 and 468A.992, 476.380,
 21 477.505 to 477.562 and 478.960.

22 **SECTION 6.** ORS 468A.550 is amended to read:

23 468A.550. As used in this section and ORS 468A.555 to 468A.620 and 468A.992:

24 *[(1) "Field burning" and "open field burning" do not include:]*

25 *[(a) Propane flaming of mint stubble; or]*

26 *[(b) Stack or pile burning of residue from Christmas trees as defined in ORS 571.505.]*

27 *[(2)]* (1) "Research and development of alternatives to *[field burning]* **thermal field**
 28 **sanitation**" includes, but is not limited to, projects concerned with cultural practices for producing
 29 grass seed without *[field burning]* **thermal field sanitation**, environmental impacts of alternative
 30 seed production methods, straw marketing and utilization and alternative crops.

31 *[(3)]* (2) "Smoke management" means the daily control of the conducting of *[open field burning]*
 32 **thermal field sanitation** to such times and places and in such amounts so as to provide for the
 33 escape of smoke and particulate matter therefrom into the atmosphere with minimal intrusion into
 34 cities and minimal impact on public health and in such a manner that under existing meteorological
 35 conditions a maximum number of acres registered can be *[burned]* **thermally sanitized** in a mini-
 36 mum number of days without substantial impairment of air quality.

37 *[(4)]* (3) "Smoke management program" means a plan or system for smoke management. A smoke
 38 management program shall include, but not be limited to, provisions for:

39 (a) Annual inventorying and registering, prior to the *[burning]* **thermal sanitation** season, of
 40 agricultural fields for *[open field burning]* **thermal field sanitation**;

41 (b) Preparation and issuance of *[open field burning]* permits **for thermal field sanitation** by
 42 affected governmental agencies;

43 (c) Gathering and disseminating regional and sectional meteorological conditions on a daily or
 44 hourly basis;

45 (d) Scheduling times, places and amounts of agricultural fields that may be *[open burned]*

1 **thermally sanitized** daily or hourly, based on meteorological conditions during the [*burning*]
2 **thermal sanitation** season;

3 (e) Conducting surveillance and gathering and disseminating information on a daily or more
4 frequent basis;

5 (f) Effective communications between affected personnel during the [*burning*] **thermal sanita-**
6 **tion** season; and

7 (g) Employment of personnel to conduct the program.

8 (4) **“Thermal field sanitation”:**

9 (a) **Has the meaning given that term in ORS 468A.100.**

10 (b) **Does not include:**

11 (A) **Propane flaming of mint stubble; or**

12 (B) **Stack or pile burning of residue from Christmas trees as defined in ORS 571.505.**

13 **SECTION 7.** ORS 468A.555 is amended to read:

14 468A.555. The Legislative Assembly declares it to be the public policy of this state to reduce the
15 practice of [*open field burning*] **thermal field sanitation** while developing and providing alternative
16 methods of field sanitization and alternative methods of utilizing and marketing crop residues.

17 **SECTION 8.** ORS 468A.560 is amended to read:

18 468A.560. (1) Except for the fee imposed under ORS 468A.615 (1)(c), the provisions of ORS
19 468A.550 to 468A.620 and 468A.992 [*shall*] apply only to [*open field burning*] **thermal field sanita-**
20 **tion**, propane flaming and stack or pile burning of grass seed or cereal grain crop residues on
21 acreage located in the counties specified in ORS 468A.595 (2).

22 (2) Nothing in this section [*shall apply*] **applies** to the propane flaming of mint stubble.

23 **SECTION 9.** ORS 468A.580 is amended to read:

24 468A.580. (1) Permits under ORS 468A.575 for [*open field burning*] **the thermal field sanitation**
25 of cereal grain crops shall be issued in the counties listed in ORS 468A.595 (2) only if the person
26 seeking the permit submits to the issuing authority a signed statement under oath or affirmation
27 that the acreage to be [*burned*] **thermally sanitized** will be planted to seed crops other than cereal
28 grains [*which*] **that** require flame sanitation for proper cultivation.

29 (2) The Department of Environmental Quality shall inspect cereal grain crop acreage [*burned*]
30 **thermally sanitized** under subsection (1) of this section after planting in the following spring to
31 determine compliance with subsection (1) of this section.

32 (3) Any person planting contrary to the restrictions of subsection (1) of this section shall be
33 assessed by the department a civil penalty of \$25 for each acre planted contrary to the restrictions.
34 Any fines collected by the department under this subsection shall be deposited by the State Treas-
35 urer in the Department of Agriculture Service Fund to be used in carrying out the smoke manage-
36 ment program in cooperation with the Oregon Seed Council and for administration of this section.

37 (4) Any person planting seed crops after [*burning*] **thermally sanitizing** cereal grain crops un-
38 der subsection (1) of this section may apply to the department for permission to plant contrary to
39 the restrictions of subsection (1) of this section if the seed crop fails to grow. The department may
40 allow planting contrary to the restrictions of subsection (1) of this section if the crop failure oc-
41 curred by reasons other than the negligence or intentional act of the person planting the crop or
42 one under the control of the person planting the crop.

43 **SECTION 10.** ORS 468A.585 is amended to read:

44 468A.585. (1) The Environmental Quality Commission shall enter into a memorandum of under-
45 standing with the State Department of Agriculture that provides for the State Department of Agri-

1 culture to operate [*all of the field burning*] **the thermal field sanitation** program.

2 (2) Subject to the terms of the memorandum of understanding required by subsection (1) of this
3 section, the State Department of Agriculture:

4 (a) May perform any function of the Environmental Quality Commission or the Department of
5 Environmental Quality relating to the operation and enforcement of the [*field burning*] **thermal**
6 **field sanitation** smoke management program.

7 (b) May enter onto and inspect, at any reasonable time, the premises of any person conducting
8 [*an open field burn*] **thermal field sanitation** to ascertain compliance with a statute, rule, standard
9 or permit condition relating to the [*field burning*] **thermal field sanitation** smoke management
10 program.

11 (c) May conduct a program for the research and development of alternatives to [*field burning*]
12 **thermal field sanitation**.

13 **SECTION 11.** ORS 468A.590 is amended to read:

14 468A.590. Pursuant to the memorandum of understanding established under ORS 468A.585, the
15 State Department of Agriculture:

16 (1) Shall:

17 (a) Conduct the smoke management program established by rule by the Environmental Quality
18 Commission as it pertains to [*open field burning*] **thermal field sanitation**, propane flaming and
19 stack or pile burning.

20 (b) Aid fire districts and permit agents in carrying out their responsibilities for administering
21 field sanitization programs.

22 (c) Subject to available funding, conduct a program for the research and development of alter-
23 natives to [*field burning*] **thermal field sanitation**.

24 (2) May:

25 (a) Enter into contracts with public and private agencies to carry out the purposes set forth in
26 subsection (1) of this section;

27 (b) Obtain patents in the name of the State of Oregon and assign such rights therein as the State
28 Department of Agriculture considers appropriate;

29 (c) Employ personnel to carry out the duties assigned to it; and

30 (d) Sell and dispose of all surplus property of the State Department of Agriculture related to
31 smoke management, including but not limited to straw-based products produced or manufactured by
32 the State Department of Agriculture.

33 **SECTION 12.** ORS 468A.595 is amended to read:

34 468A.595. In order to regulate [*open field burning*] **thermal field sanitation** pursuant to ORS
35 468A.610:

36 (1) In such areas of the state and for such periods of time as it considers necessary to carry out
37 the policy of ORS 468A.010, the Environmental Quality Commission by rule may prohibit, restrict
38 or limit classes, types and extent and amount of [*burning*] **thermal field sanitation** for perennial
39 grass seed crops, annual grass seed crops and grain crops.

40 (2) In addition to but not in lieu of the provisions of ORS 468A.610 and of any other rule adopted
41 under subsection (1) of this section, the commission shall adopt rules for Multnomah, Washington,
42 Clackamas, Marion, Polk, Yamhill, Linn, Benton and Lane Counties, which provide for a more rapid
43 phased reduction by certain permit areas, depending on particular local air quality conditions and
44 soil characteristics, the extent, type or amount of [*open field burning*] **thermal field sanitation** of
45 perennial grass seed crops, annual grass seed crops and grain crops and the availability of alterna-

1 tive methods of field sanitation and straw utilization and disposal.

2 (3) Before promulgating rules pursuant to subsections (1) and (2) of this section, the commission
3 shall consult with Oregon State University and may consult with the United States Natural Re-
4 sources Conservation Service, or its successor agency, the Agricultural Stabilization Commission,
5 the state Soil and Water Conservation Commission and other interested agencies. The Department
6 of Environmental Quality shall advise the commission in the promulgation of such rules. The com-
7 mission must review and show on the record the recommendations of the department in
8 promulgating such rules.

9 (4) No regional air quality control authority shall have authority to regulate [*burning*] **the**
10 **thermal field sanitation** of perennial grass seed crops, annual grass seed crops and grain crops.

11 (5) Any amendments to the State Implementation Plan prepared by the state pursuant to the
12 federal Clean Air Act, as enacted by Congress, December 31, 1970, and as amended by Congress
13 August 7, 1977, and November 15, 1990, and Acts amendatory thereto shall be only of such suffi-
14 ciency as to gain approval of the amendment by the United States Environmental Protection Agency
15 and shall not include rules promulgated by the commission pursuant to subsection (1) of this section
16 not necessary for attainment of national ambient air quality standards.

17 **SECTION 13.** ORS 468A.600 is amended to read:

18 468A.600. The Environmental Quality Commission shall establish standards of practice and per-
19 formance for [*open field burning*] **thermal field sanitation**, propane flaming, stack or pile burning
20 and certified alternative methods to [*open field burning*] **thermal field sanitation**.

21 **SECTION 14.** ORS 468A.605 is amended to read:

22 468A.605. The Department of Environmental Quality, in coordinating efforts under ORS 468.140,
23 468.150, 468A.020, 468A.555 to 468A.620 and 468A.992, shall:

24 (1) Enforce all [*field burning*] rules **relating to thermal field sanitation** adopted by the Envi-
25 ronmental Quality Commission and all related statutes; and

26 (2) Monitor and prevent unlawful [*field burning*] **thermal field sanitation**.

27 **SECTION 15.** ORS 468A.610 is amended to read:

28 468A.610. (1) Except as provided under ORS 468A.620, no person shall [*open burn or cause to be*
29 *open burned*] **thermally sanitize or cause to be thermally sanitized**, propane flamed or stack or
30 pile burned in the counties specified in ORS 468A.595 (2), perennial or annual grass seed crop or
31 cereal grain crop residue, unless the acreage has been registered under ORS 468A.615 and the per-
32 mits required by ORS 468A.575, 476.380 and 478.960 have been obtained.

33 (2) The maximum total registered acreage allowed to be [*open burned*] **thermally sanitized** per
34 year pursuant to subsection (1) of this section shall be[.] **40,000 acres.**

35 [(a) For 1991, 180,000 acres.]

36 [(b) For 1992 and 1993, 140,000 acres.]

37 [(c) For 1994 and 1995, 120,000 acres.]

38 [(d) For 1996 and 1997, 100,000 acres.]

39 [(e) For 1998 and thereafter, 40,000 acres.]

40 (3) The maximum total acreage allowed to be propane flamed under subsection (1) of this section
41 shall be[.] **10,000 acres.**

42 [(a) In 1991 through 1997, 75,000 acres per year; and]

43 [(b) In 1998 and thereafter, 37,500 acres per year may be propane flamed.]

44 (4)(a) After January 1, 1998, fields shall be prepared for propane flaming by removing all loose
45 straw or vacuuming or prepared using other techniques approved by rule by the Environmental

1 Quality Commission.

2 (b) After January 1, 1998, propane equipment shall satisfy best available technology.

3 (5) Notwithstanding the limitations set forth in subsection (2) of this section, in 1991 and
4 thereafter, a maximum of 25,000 acres of steep terrain and species identified by the Director of Ag-
5 riculture by rule may be [*open burned*] **thermally sanitized** and shall not be included in the maxi-
6 mum total permitted acreage.

7 (6) Acreage registered to be [*open burned*] **thermally sanitized** under this section may be
8 propane flamed at the registrant's discretion without reregistering the acreage.

9 (7) In the event of the registration of more than the maximum allowable acres for [*open*
10 *burning*] **thermal field sanitation** in the counties specified in ORS 468A.595 (2), after 1996, the
11 commission, after consultation with the State Department of Agriculture, by rule or order may as-
12 sign priority of permits based on soil characteristics, the crop type, terrain or drainage.

13 (8) Permits shall be issued and [*burning*] **thermal field sanitation** shall be allowed for the
14 maximum acreage specified in subsection (2) of this section unless:

15 (a) The daily determination of suitability of meteorological conditions, regional or local air
16 quality conditions or other [*burning*] **sanitizing** conditions requires that a maximum number of acres
17 not be [*burned*] **thermally sanitized** on a given day; or

18 (b) The commission finds after hearing that other reasonable and economically feasible, envi-
19 ronmentally acceptable alternatives to the practice of annual [*open field burning*] **thermal field**
20 **sanitation** have been developed.

21 (9) Upon a finding of extreme danger to public health or safety, the commission may order
22 temporary emergency cessation of all [*open field burning*] **thermal field sanitation**, propane flaming
23 or stack or pile burning in any area of the counties listed in ORS 468A.595 (2).

24 (10) The commission shall act on any application for a permit under ORS 468A.575 within 60
25 days of registration and receipt of the fee required under ORS 468A.615. The commission may order
26 emergency cessation of [*open field burning*] **thermal field sanitation** at any time. Any other deci-
27 sion required under this section must be made by the commission on or before June 1 of each year.

28 **SECTION 16.** ORS 468A.615 is amended to read:

29 468A.615. (1)(a) On or before April 1 of each year, the grower of a grass seed crop shall register
30 with the county court or board of county commissioners, the fire chief of a rural fire protection
31 district, the designated representative of the fire chief or other responsible persons the number of
32 acres to be [*open burned*] **thermally sanitized** or propane flamed in the remainder of the year. At
33 the time of registration, the Department of Environmental Quality shall collect a nonrefundable fee
34 of \$2 per acre registered to be **thermally** sanitized [*by open burning*] or \$1 per acre to be sanitized
35 by propane flaming. The department may contract with counties and rural fire protection districts
36 or other responsible persons for the collection of the fees which shall be forwarded to the depart-
37 ment. Any person registering after April 1 of each year shall pay an additional fee of \$1 per acre
38 registered if the late registration is due to the fault of the late registrant or one under the control
39 of the late registrant. Late registrations must be approved by the department. Copies of the regis-
40 tration form shall be forwarded to the department. The required registration must be made and the
41 fee paid before a permit shall be issued under ORS 468A.575.

42 (b) Except as provided in paragraph (d) of this subsection, the department shall collect a fee in
43 accordance with paragraph (c) of this subsection for issuing a permit for [*open burning*] **thermal**
44 **field sanitation**, propane flaming or stack or pile burning of perennial or annual grass seed crop
45 or cereal grain crop residue under ORS 468A.555 to 468A.620 and 468A.992. The department may

1 contract with counties and rural fire protection districts or other responsible persons for the col-
2 lection of the fees which shall be forwarded to the department.

3 (c) The fee required under paragraph (b) of this subsection shall be paid within 10 days after a
4 permit is issued and shall be:

5 (A) \$8 per acre of crop **thermally** sanitized [*by open burning*] in the counties specified in ORS
6 468A.595 (2);

7 (B) \$4 per acre of perennial or annual grass seed crop **thermally** sanitized [*by open burning*] in
8 any county not specified in ORS 468A.595 (2);

9 (C) \$2 per acre of crop sanitized by propane flaming;

10 (D) **\$10 per acre** for acreage from which 100 percent of the straw is removed and burned in
11 stacks or piles[.]; **and**

12 [*i*] \$2 per acre from January 1, 1992, to December 31, 1997;]

13 [*ii*] \$4 per acre in 1998;]

14 [*iii*] \$6 per acre in 1999;]

15 [*iv*] \$8 per acre in 2000; and]

16 [*v*] \$10 per acre in 2001 and thereafter; and]

17 (E) For acreage from which less than 100 percent of the straw is removed and burned in stacks
18 or piles, the same per acre as the fee imposed under subparagraph (D) of this paragraph, but with
19 a reduction in the amount of acreage for which the fee is charged by the same percentage as the
20 reduction in the amount of straw to be burned.

21 (d) The fee required by paragraph (b) of this subsection shall not be charged for any acreage
22 where efficient burning of stubble is accomplished with equipment certified by the department for
23 field sanitizing purposes or with any other certified alternative method to [*open field burning*]
24 **thermal field sanitation**, propane flaming or stack or pile burning. The fee required by paragraph
25 (b) of this subsection shall not be charged for any acreage not harvested prior to [*burning*] **thermal**
26 **field sanitation** or for any acreage not [*burned*] **thermally sanitized**.

27 (2) All fees collected under this section shall be deposited in the State Treasury to the credit
28 of the Department of Agriculture Service Fund. Such moneys are continuously appropriated to the
29 State Department of Agriculture for the purpose of carrying out the duties and responsibilities car-
30 ried out by the State Department of Agriculture pursuant to the memorandum of understanding es-
31 tablished under ORS 468A.585.

32 (3) It is the intention of the Legislative Assembly that the programs for smoke management, air
33 quality monitoring and the enforcement of rules under ORS 468A.550 to 468A.620 and 468A.992 be
34 operated in a manner that maximizes the resources available for the research and development
35 program. Therefore, with regard to the disbursement of funds collected under subsection (1) of this
36 section, the State Department of Agriculture shall act in accordance with the intent of the Legis-
37 lative Assembly and shall:

38 (a) Pay an amount to the county or board of county commissioners or the fire chief of the rural
39 fire protection district or other responsible person, for each fire protection district, \$1 per acre
40 registered for each of the first 5,000 acres registered for [*open field burning*] **thermal field sanita-**
41 **tion** and propane flaming in the district, 75 cents per acre registered for each of the second 5,000
42 acres registered in the district and 35 cents per acre registered for all acreage registered in the
43 district in excess of 10,000 acres, to cover the cost of and to be used solely for the purpose of ad-
44 ministering the program of registration of acreage to be [*burned*] **thermally sanitized**, issuance of
45 permits, keeping of records and other matters directly related to agricultural [*field burning*] **thermal**

1 **field sanitation.** For each acre from which straw is removed and burned in stacks or piles, the
 2 State Department of Agriculture shall pay to the county or board of county commissioners, or the
 3 fire chief of the rural fire protection district or other responsible person, 25 cents per acre.

4 (b) Designate an amount to be used for the smoke management program. The State Department
 5 of Agriculture by contract with the Oregon Seed Council or otherwise shall organize rural fire
 6 protection districts and growers, coordinate and provide communications, hire ground support per-
 7 sonnel, provide aircraft surveillance and provide such added support services as are necessary.

8 (c) Retain funds for the operation and maintenance of the Willamette Valley [*field burning*]
 9 **thermal field sanitation** air quality impact monitoring network and to [*insure*] **ensure** adequate
 10 enforcement of rules established by the Environmental Quality Commission governing standards of
 11 practice for [*open field burning*] **thermal field sanitation**, propane flaming and stack or pile burn-
 12 ing.

13 (d) Of the remaining funds, designate an amount to be used for additional funding for research
 14 and development proposals described in the plan developed pursuant to section 15, chapter 920,
 15 Oregon Laws 1991.

16 **SECTION 17.** ORS 468A.620 is amended to read:

17 468A.620. (1) Notwithstanding the provisions of ORS 468A.610, for the purpose of improving by
 18 demonstration or investigation the environmental or agronomic effects of alternative methods of
 19 field sanitization, the Environmental Quality Commission shall by rule allow experimental field
 20 sanitization under the direction of the Department of Environmental Quality for up to 1,000 acres
 21 of perennial grass seed crops, annual grass seed crops and grain crops in such areas and for such
 22 periods of time as it considers necessary. Experimental field sanitization includes but is not limited
 23 to:

24 (a) Development, demonstration or training personnel in the use of special or unusual field ig-
 25 nition techniques or methodologies.

26 (b) Setting aside times, days or areas for special studies.

27 (c) Operation of experimental mobile field sanitizers and improved propane flaming devices.

28 (d) Improved methods of stack or pile burning.

29 (2) The commission may allow [*open burning*] **experimental field sanitation** under this section
 30 of acreage for which permits have not been issued under ORS 468A.610 if the commission finds that
 31 the experimental [*burning*] **field sanitation**:

32 (a) Can, in theory, reduce the adverse effects on air quality or public health from [*open field*
 33 *burning*] **thermal field sanitation**; and

34 (b) Is necessary in order to obtain information on air quality, public health or the agronomic
 35 effects of an experimental form of field sanitization.

36 (3) The commission may, by rule, establish fees, registration requirements and other require-
 37 ments or limitations necessary to carry out the provisions of this section.

38 **SECTION 18.** ORS 468A.992 is amended to read:

39 468A.992. (1) In addition to any liability or penalty provided by law, the State Department of
 40 Agriculture may impose a civil penalty on any person who fails to comply with a provision of ORS
 41 468A.555 to 468A.620 or any rule adopted thereunder, or a permit issued under ORS 468A.555 to
 42 468A.620, relating to [*open field burning*] **thermal field sanitation**.

43 (2) The State Department of Agriculture shall impose any civil penalty under this section in the
 44 same manner as the Department of Environmental Quality imposes and collects a civil penalty under
 45 ORS 468.140.

SECTION 19. ORS 476.010 is amended to read:

476.010. (1) As used in ORS 476.010 to 476.115, 476.150 to 476.170 and 476.210 to 476.270, “alterations,” “construction,” “family,” “hospital,” “occupancy” and “private residence” have the meanings given those terms in ORS 479.168.

(2) As used in ORS 476.030 and other laws relating to the duties of the State Fire Marshal, “governmental subdivision” means a city, county, municipal corporation, quasi-municipal corporation and rural fire protection district, created under the laws of Oregon.

(3) As used in ORS 476.380:

(a) “Commercial waste”:

(A) Means any waste produced in any business involving the lease or sale, including wholesale and retail, of goods or services, including but not limited to housing.

(B) Means any waste produced by a governmental, educational or charitable institution.

(C) Does not include any waste produced in a dwelling containing four living units or less.

(b) “Demolition material” means any waste resulting from the complete or partial destruction of any man-made structure, such as a house, apartment, commercial building or industrial building.

(c) “Domestic waste” means any nonputrescible waste, consisting of combustible materials, such as paper, cardboard, yard clippings, wood or similar materials, generated in a dwelling, including the real property upon which it is situated, containing four living units or less.

[(d) “Field burning” means the burning of any grass field, grain field, pasture, rangeland or other field by open burning or by use of mobile equipment or flaming equipment on any land or vegetation.]

[(e)] (d) “Industrial waste” means any waste resulting from any process or activity of manufacturing or construction.

[(f)] (e) “Land clearing debris” means any waste generated by the removal of debris, logs, trees, brush or demolition material from any site in preparation for land improvement or construction projects.

[(g)] (f) “Open burning” means any burning conducted in such a manner that combustion air is not effectively controlled and that combustion products are not vented through a stack or chimney, including but not limited to burning conducted in open outdoor fires, common burn barrels and backyard incinerators.

(g) “Thermal field sanitation” has the meaning given that term in ORS 468A.100.

SECTION 20. ORS 476.380 is amended to read:

476.380. (1) No person, outside the boundaries of a rural fire protection district or a forest protection district, shall cause or permit to be initiated or maintained on the property of the person, or cause to be initiated or maintained on the property of another any open burning of commercial waste, demolition material, domestic waste, industrial waste[,] **or** land clearing debris or *[field burning]* **thermal field sanitation** without first securing a permit from the county court or board of county commissioners.

(2) The county court or board of county commissioners, or its designated representative, shall prescribe conditions for issuance of any permit and shall refuse, revoke or postpone issuance of permits when necessary to prevent danger to life or property or to protect the air resources of this state. The Environmental Quality Commission shall notify the State Fire Marshal of the type of and time for **open** burning to be allowed on each day under schedules adopted pursuant to ORS 468A.570 and 468A.595. The State Fire Marshal shall cause all county courts and boards of county commissioners or their designated representatives in the affected areas to be notified of the type of and

1 time for **open** burning to be allowed on each day and of any revisions of such conditions during each
 2 day. The county court, board or representative shall issue permits only in accordance with schedules
 3 of the Environmental Quality Commission adopted pursuant to this section and ORS 468A.555 to
 4 468A.620 and 468A.992, 476.990, 478.960 and 478.990 but may reduce the hours allowed for **open**
 5 burning if necessary to prevent danger to life or property from fire. The State Fire Marshal may
 6 refuse or postpone permits when necessary in the judgment of the State Fire Marshal to prevent
 7 danger to life or property from fire, notwithstanding any determination by the county court or board
 8 of county commissioners or its designated officer. Notwithstanding any other provision of this sub-
 9 section, for a permit for the propane flaming of mint stubble, the county court or board of county
 10 commissioners, or its designated representative may only prescribe conditions necessary to prevent
 11 the spread of fire or to prevent endangering life or property and may refuse, revoke or postpone
 12 permission to conduct the propane flaming only when necessary to prevent danger to life or property
 13 from fire.

14 (3) Nothing in this section:

15 (a) Requires permission for starting a campfire in a manner otherwise lawful.

16 (b) Relieves a person starting a fire from responsibility for providing adequate protection to
 17 prevent injury or damage to the property of another. If such burning results in the escape of fire
 18 and injury or damage to the property of another, such escape and damage or injury constitutes
 19 prima facie evidence that the burning was not safe.

20 (c) Relieves a person who has obtained permission to start a fire, or the agent of the person,
 21 from legal liability for property damage resulting from the fire.

22 (d) Permits an act within a city or regional air quality control authority area that otherwise is
 23 unlawful pursuant to an ordinance of the city or rule, regulation or order of the regional authority.

24 (4) The county court or board of county commissioners shall maintain records of all permits and
 25 the conditions thereof, if any, that are issued under this section and shall submit at such times, as
 26 the Environmental Quality Commission shall require such records or summaries thereof to the
 27 commission. The Environmental Quality Commission shall provide forms for the reports required
 28 under this subsection.

29 **SECTION 21.** ORS 478.001 is amended to read:

30 478.001. (1) As used in this chapter, unless the context requires otherwise:

31 (a) “Board of directors” or “district board” means the governing body of a district.

32 (b) “County” means the county in which the district, or the greater portion of the taxable as-
 33 sessed value of the district, is located.

34 (c) “County board” means the county court or board of county commissioners of the county.

35 (d) “District” means a rural fire protection district proposed to be organized or organized under,
 36 or subject to, this chapter.

37 (e) “Owner” or “landowner” means a legal owner of real property or the vendee of a contract
 38 of purchase of real property, if any, to the exclusion of the vendor. The term includes a unit owner,
 39 as defined in ORS 100.005.

40 (2) As used in ORS 478.960:

41 (a) “Commercial waste” means any waste produced in any business involving the lease or sale,
 42 including wholesale and retail, of goods or services, including but not limited to housing, and means
 43 any waste produced by a governmental, educational or charitable institution; however, it does not
 44 include any waste produced in a dwelling containing four living units or less.

45 (b) “Demolition material” means any waste resulting from the complete or partial destruction

1 of any man-made structure such as a house, apartment, commercial building or industrial building.

2 (c) “Domestic waste” means any nonputrescible waste, consisting of combustible materials, such
 3 as paper, cardboard, yard clippings, wood, or similar materials, generated in a dwelling, including
 4 the real property upon which it is situated, containing four living units or less.

5 [(d) “Field burning” means the burning of any grass field, grain field, pasture, rangeland or other
 6 field by open burning or by use of mobile equipment or flaming equipment on any land or
 7 vegetation.]

8 [(e)] (d) “Industrial waste” means any waste resulting from any process or activity of manufac-
 9 turing or construction.

10 [(f)] (e) “Land clearing debris” means any waste generated by the removal of debris, logs, trees,
 11 brush or demolition material from any site in preparation for land improvement or construction
 12 projects.

13 [(g)] (f) “Open burning” means any burning conducted in such a manner that combustion air is
 14 not effectively controlled and that combustion products are not vented through a stack or chimney,
 15 including but not limited to burning conducted in open outdoor fires, common burn barrels and
 16 backyard incinerators.

17 (g) “**Thermal field sanitation**” has the meaning given that term in ORS 468A.100.

18 **SECTION 22.** ORS 478.960 is amended to read:

19 478.960. (1) No one, within the boundaries of a district, shall cause or permit to be initiated or
 20 maintained on one’s own property, or cause to be initiated or maintained on the property of another,
 21 any open burning of commercial waste, demolition material, domestic waste, industrial waste[,] **or**
 22 land clearing debris or [*field burning*] **thermal field sanitation** without first securing permission
 23 from the fire chief of the district and complying with the direction of the fire chief. A deputy of a
 24 fire chief has the power to perform any act or duty of the fire chief under this section.

25 (2) The fire chief shall prescribe conditions upon which permission is granted and which are
 26 necessary to be observed in setting the fire and preventing it from spreading and endangering life
 27 or property or endangering the air resources of this state. The Environmental Quality Commission
 28 shall notify the State Fire Marshal of the type of and time for **open** burning to be allowed on each
 29 day under schedules adopted pursuant to ORS 468A.570 and ORS 468A.595. The State Fire Marshal
 30 shall cause all fire chiefs and their deputies in the affected area to be notified of the type and time
 31 for **open** burning to be allowed on each day with updating messages each day as required. A fire
 32 chief or deputy shall grant permission only in accordance with the schedule of the Environmental
 33 Quality Commission but may reduce hours to be allowed for **open** burning if necessary to prevent
 34 danger to life or property from fire. The State Fire Marshal may refuse, revoke or postpone per-
 35 mission when necessary in the judgment of the State Fire Marshal to prevent danger to life or
 36 property from fire, notwithstanding any determination by the fire chief.

37 (3) Nothing in this section relieves a person starting a fire from responsibility for providing
 38 adequate protection to prevent injury or damage to the person or property of another. If such
 39 burning results in the escape of fire and injury or damage to the person or property of another, such
 40 escape and damage or injury constitutes prima facie evidence that the burning was not safe.

41 (4) Within a district, no person shall, during the fire season declared under ORS 477.505, operate
 42 any equipment in forest harvesting or agricultural operations powered by an internal combustion
 43 engine on or within one-eighth of one mile of forestland unless each piece of equipment is provided
 44 with a fire extinguisher of sufficient size and capacity and with such other tools and fire-fighting
 45 equipment as may be reasonably required by the fire chief of the district. The provisions of this

1 subsection do not apply to machinery regulated by ORS chapter 477.

2 (5) No person shall dispose of any building or building wreckage within a district by fire without
3 having first secured permission therefor from the fire chief. No person shall refuse to comply with
4 any reasonable requirements of the fire chief as to the safeguarding of such fire from spreading.

5 (6) This section is not intended to limit the authority of a district to adopt a fire prevention code
6 as provided in ORS 478.910 to 478.940 or to issue permits when the **open** burning is done by me-
7 chanical burners fired by liquid petroleum gas.

8 (7) The fire chief shall maintain records of all permits and the conditions thereof, if any, that
9 are issued for [*field burning*] **thermal field sanitation** under this section and shall submit at such
10 times, as the Environmental Quality Commission shall require such records or summaries thereof to
11 the commission. The Environmental Quality Commission shall provide forms for the reports re-
12 quired under this subsection.

13 (8) Notwithstanding any other provision of this section:

14 (a) A permit is required for [*field burning*] **thermal field sanitation** authorized pursuant to ORS
15 468A.550 to 468A.620 and 468A.992.

16 (b) For a permit for the propane flaming of mint stubble, the fire chief may only prescribe con-
17 ditions necessary to prevent the spread of fire or to prevent endangering life or property and may
18 refuse, revoke or postpone permission to conduct the propane flaming only when necessary to pre-
19 vent danger to life or property from fire.

20 **SECTION 23.** ORS 496.340 is amended to read:

21 496.340. (1) Except as provided in subsection (3) of this section, whenever real property owned
22 by the State Fish and Wildlife Commission is exempt from taxation on January 1 of any year by
23 reason of its ownership by the state, the commission shall pay to the county in which the property
24 is situated an amount equal to the ad valorem taxes that would have been charged against the
25 property if it had been assessed to a taxable owner as of January 1 of such year as provided in
26 subsection (2) of this section. The county assessor shall determine the value of such property and
27 shall notify the commission of the determination of the county assessor. Upon request of the com-
28 mission, the Department of Revenue shall review the determination of value and shall redetermine
29 the value if it concludes the value initially determined was substantially incorrect.

30 (2)(a) Except as provided in paragraph (b) or (c) of this subsection, the value of the property
31 shall be computed at its assessed value under ORS 308A.107 or for forestland use, whichever is ap-
32 plicable.

33 (b) Paragraph (a) of this subsection [*shall*] **does** not apply to any property upon which [*open field*
34 *burning*] **thermal field sanitation, as defined in ORS 468A.100,** takes place. If [*open field*
35 *burning*] **thermal field sanitation** takes place on any property described in this section, the prop-
36 erty shall be valued at its highest and best use rather than the values authorized in paragraph (a)
37 of this subsection on the January 1 following the date of the [*open field burning*] **thermal field**
38 **sanitation.** If in the next year, the [*open field burning*] **thermal field sanitation** is discontinued,
39 paragraph (a) of this subsection shall apply the next January 1 and each year thereafter as long as
40 no [*open field burning*] **thermal field sanitation** occurs.

41 (c) Paragraph (a) of this subsection [*shall*] **does** not apply to any property acquired by the
42 commission after September 9, 1971, if such property was valued under farm use or forestland use
43 special assessment provisions, at the time the property was acquired by the commission. However,
44 no payments in lieu of taxes made to a county pursuant to this section prior to January 1, 1974,
45 [*shall*] **may** be refunded to the commission.

1 (3) This section does not apply to real property used for bird farms, fish hatcheries, office
2 quarters, fishing access sites or impoundments, capital improvements or real property acquired
3 pursuant to the Act of May 19, 1948 (62 Stat. 240), Public Law 80-537.

4 (4) The amount prescribed in subsection (1) of this section shall be determined annually by the
5 assessor of the county in which the property is situated and certified by the assessor to the county
6 court or the board of county commissioners. A notice of the determination, signed by the county
7 judge or the chairperson of the board of county commissioners, shall be mailed to the principal office
8 of the commission not later than October 15. The notice shall contain a statement of the value of
9 the property and a complete explanation of the method used in computing the amount claimed pur-
10 suant to subsection (1) of this section. Not later than November 15, the commission shall pay each
11 amount, less a discount equivalent to that which is provided in ORS 311.505. Payment shall be made
12 to the county treasurer, who shall distribute the payment to the taxing districts of the county in
13 accordance with the schedule of percentages computed under ORS 311.390.

14 (5) Notwithstanding any other provision of the wildlife laws, the commission shall make the
15 payments to counties required by this section annually from the moneys in the State Wildlife Fund
16 established by ORS 496.300.

17 _____