

Rapeseed Production District

603-052-0860

Definitions

For purposes of this rule, the following terms are defined as indicated:

- (1) "*Brassica* spp." means any plants in the genus *Brassica*.
- (2) "Cover crop" means any species of rapeseed that is grown as a cover crop and is not allowed to flower.
- (3) "Department" means the department of agriculture of the state of Oregon.
- (4) "Director" means the director of the department or his duly authorized representative.
- (5) "Forage" means any species of rapeseed that is grown for livestock feed and is not allowed to flower.
- (6) "Person" means an individual, firm, partnership, corporation, company, society, association, cooperative, two or more persons having a joint or common interest, or any unit or agency of local, state, or federal government.
- (7) "Producer" means any person who is the owner, tenant, or operator of land who has an interest in, and is entitled to receive all or any part of the proceeds from the sale of any commodity produced on that land.
- (8) "Rapeseed" means plants of the species *Brassica napus*, *Brassica rapa* and *Brassica juncea*, where seeds of high oil content are the economically valuable product. Included are the industrial seed types, with high erucic acid levels and canola with low erucic acid content used for edible oils.
- (9) Vegetable/forage *Brassica* spp. Includes crops where the primary use is as a vegetable or forage crop. Species and common names for crops included in this category are *Brassica napus* (rutabaga, Siberian kale), *B. rapa* (turnip, turnip rapa, forage turnip, Napa or Chinese cabbage, Chinese flat cabbage, pak choi, pe-tsai, mizuna or mibuna, tendergreen mustard, and broccoli raab), *B. juncea* (Chinese mustard), *B. oleracea* (kale, collards, Chinese kale or Chinese broccoli or gai lan or kalia, cauliflower and heading broccoli, cabbage, Brussels sprouts, kohlrabi and sprouting broccoli or calabrese) and *B. carinata* (*Ethiopian mustard*).

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General Production Area/Protected Districts

Growing rapeseed for oil, seed, forage or cover crop production requires particular attention to maintaining oilseed quality and purity. The protection of oil, seed, forage and cover crop quality and purity is in the public interest, as is the orderly production of such crops. Proper isolation between differing types of rapeseed or other crops susceptible to cross pollination and/or processing problems is required if the public interest in a food, industrial or seed market is to be developed and protected, and established commodity markets are to be preserved. Therefore, the seeding and growing of rapeseed by any person for any purpose in the state of Oregon shall be subject to the regulations of either the general production area or a protected district. Noncompliance with these regulations constitutes an unreasonable interference with the public's rights to use and enjoy rapeseed for oil, seed, forage or cover crops.

603-052-0880

General Production Area

- (1) All lands in Oregon outside of protected districts are for the purposes of this rule, in the general production area. Rapeseed production in the General Production Area is subject to the following regulations.
 - (a) Growing *Brassica* spp. crops including rapeseed, for any purpose including oil is allowed.

(b) All rapeseed seed stock which trades in commerce in General Production Areas must be certified seed which has been produced under standards established by the Association of Seed Certifying Agencies and state standards, and must be accompanied by a phytosanitary certificate stating that a test performed on untreated seed was free from blackleg, *Leptosphaeria maculans*; the seed must also be treated (after the phytosanitary test) prior to planting with a fungicide officially approved for blackleg control;

(c) To prevent buildup of blackleg, blackrot, and other diseases and pests, rapeseed may not be grown on the same plot of land more often than two years in every five;

(d) All untagged loads of rapeseed transported through Protected Districts must be in enclosed bins or in containers lined and covered in a manner to prevent seed loss.

Protected Districts

(2) Production of rapeseed for oil or seed is incompatible with production of crops of the same or related species grown for seed or vegetables. Therefore, protected districts are established where rapeseed production for oil or seed is prohibited except under special permit. Production of rapeseed for forage or cover crop in these protected production areas is subject to measures to minimize undesirable cross-pollination, disease and pest buildup, and volunteers. The following rules apply to all land in Protected Districts:

(a) Growing rapeseed crops for oil or seed is prohibited, except under special permit as outlined in (5) below and in northeast Oregon. Growing vegetable/forage *Brassica* spp. for seed is allowed and does not require a special permit. In northeast Oregon's protected district, special permits are not required for growing rapeseed crops for oil or seed, but all other requirements, (b) to (h) below, do apply;

(b) All rapeseed seed stock which trades in commerce in Protected Districts must be certified seed which has been produced under standards established by the Association of Seed Certifying Agencies and state standards, and must be accompanied by a phytosanitary certificate stating that a test performed on untreated seed was free from blackleg, *Leptosphaeria maculans*; the seed must also be treated (after the phytosanitary test) prior to planting with a fungicide officially approved for blackleg control;

(c) To prevent buildup of blackleg, blackrot, and other diseases and pests, rapeseed may not be grown on the same plot of land more often than one year in every four years;

(d) To prevent cross-pollination problems, rapeseed must be isolated from other crops with which it will cross-pollinate, by a distance of not less than three miles. In Baker, Union and Wallowa counties the required isolation distance shall be not less than two miles;

(e) The location of all rapeseed fields, and experimental plots, must be recorded at the appropriate Oregon State University County Extension Office at least ten days prior to planting. In the Willamette Valley, the recording system used shall be that adopted by the Willamette Valley Specialty Seed Crops Association;

(f) Forage and cover crop rapeseed may be grown for forage but shall not be allowed to flower;

(g) All unbagged loads of rapeseed transported within Protected Districts must be in enclosed bins or in containers lined and covered in a manner to prevent seed loss;

(h) Any volunteer or uncontrolled rapeseed in or around production fields must be prevented from flowering by the producer.

Designation of Protected Districts

(3) The following areas are designated as Protected Districts:

(a) in the Willamette Valley, the area encompassed by a rectangle beginning at the northwest corner of Township 1N, Range 6W and proceeding east to the northeast corner of Township 1N, Range 2E, then south to the southeast corner of Township 19S, Range 2E, then west to the southwest corner of

Township 19S, Range 6W, then north to the point of beginning.

(b) in Central Oregon, the entire counties of Crook, Deschutes and Jefferson;

(c) in Northeastern Oregon, the entire counties of Baker, Union and Wallowa, except the following part of Wallowa County which is designated as a general production area: Township 4N, Range 43E; Township 4N, Range 44E; Township 4N, Range 45E; Township 5N, Range 43E; Township 5N, Range 44E; and Township 5N, Range 45E; and those portions of Township 6N, Range 43E; Township 6N, Range 44E; and Township 6N, Range 45E falling within the State of Oregon;

(d) in Malheur County, a 3-mile wide strip of land along the Idaho border from the point where Payette County, Idaho's northern border intersects Malheur County's eastern border, south to the point where Highway 95 crosses the Oregon border. This strip of land borders Idaho's rapeseed production district IV (IDAPA 02.06.13) where rapeseed production is prohibited. The rest of Malheur Co. is a general production area.

Changes to Rapeseed Control Area Rules

(4) Interested persons may petition the department to amend or repeal these rules, including designation changes creating or removing protected district status, by following the procedures in the Administrative Procedures Act, ORS 183.390. The agency must either deny the petition or initiate rulemaking within 90 days of receiving the petition. In deciding whether to grant or deny a request to amend or repeal these rules, the agency must consider six criteria:

(a) The continued need for the existing rule;

(b) Any complaints and comments about the rule received from the public;

(c) The complexity of the rule;

(d) The extent to which the rule overlaps, duplicates or conflicts with other state or federal rules and, to the extent feasible, with local government regulations;

(e) The degree to which circumstances have changed since the rule was adopted; and

(f) The legal basis for the rule.

(g) If no petitions requesting review of this rule are received by December 31, 2012, the Department shall initiate a review including stakeholder involvement.

Special Permits for Exemptions

(5) The department may issue special permits providing exemptions to the rapeseed control area rules for the purpose of research. Persons requesting a special permit shall petition the Department in writing and include the following conditions:

(a) Research must include the involvement of an accredited university;

(b) All conditions of section 2 above (b) to (h) must be met including pinning of fields;

(c) A nonrefundable application fee of \$2.00/ acre is due upon application to the Department to cover the Department's costs associated with review of the applications;

(d) The Director of the Department of Agriculture retains the final authority to approve or deny special permit requests. Any action under a special permit shall be subject to any conditions or restrictions set forth in the permit, and these conditions and restrictions may vary depending on the proposed action and its potential risk.

Violations

(6) The Director shall have the authority to require destruction prior to bloom of any rapeseed production that violates these rules. In the event that the person or producer of said production does not comply with the destruction order, the Director is authorized to have the production destroyed by a third party. The cost of such destruction is to be charged to the producer. In addition, persons violating these regulations are subject to the penalties provided by ORS 570.410 and 570.990, including civil penalties up to \$10,000.

