

DRAFT

603-052-0903 Jefferson County Protected District

(1) The entire county of Jefferson is designated as the Jefferson County Protected District. In addition to compliance with the General Production rules in OAR 603-052-0870, rapeseed grown within the Jefferson Protected District may only be produced consistent with OAR 603-052-0903 – 0907.

(2) Purpose. These rules establish a notice framework for the production of rapeseed in Jefferson County. The framework requires persons intending to grow rapeseed to provide advance notice. The Department's role under these rules is limited to receiving and publishing notices and enforcing compliance with notice requirements under these rules.

(3) These rules do not regulate on-farm cultural practices, crop management decisions, or the genetic engineering status of planted varieties.

(4) Applicability. These rules apply to rapeseed grown within Jefferson County. Other Brassica crops are not subject to these rules.

603-052-0905 Notice of Intent

(1) A person intending to grow rapeseed for fall- or spring-planting in Jefferson County must file a Notice of Intent with the Department by the following deadlines:

(a) For fall-established crops: no later than **April 1** of the year in which planting is intended.

(b) For spring-established crops: no later than **October 1** of the year preceding the year in which planting is intended.

(2) A Notice of Intent must be submitted on a form prescribed by the Department and must include all of the following:

(a) The grower's name, mailing address, telephone number, and email address;

(b) The location of each proposed field, depicted on a map or aerial photograph and identified by GPS coordinates;

(c) The estimated acreage of each proposed field;

(d) Whether the crop is intended for fall or spring establishment;

(e) An attestation that the grower is in compliance with the General Production Area requirements of OAR 603-052-0870.

(3) Filing a Notice of Intent does not obligate the grower to plant. A Notice of Intent is a prerequisite to establishing a rapeseed crop in Jefferson County. It is not a permit, license, or approval.

(4) An incomplete Notice of Intent may not be considered as timely filed. The Department may return an incomplete Notice of Intent with written notice of deficiencies. A resubmission must be received by the applicable deadline in section (1) of this rule.

(5) A materially false attestation in a Notice of Intent constitutes a violation of these rules.

603-052-0907 Publication and Notification

(1) The Department shall post all timely-filed Notices of Intent on the Department's website according to the following schedule:

(a) Notices of Intent for fall-established crops must be posted no later than **May 1** of the year in which planting is intended.

(b) Notices of Intent for spring-established crops must be posted no later than **November 1** of the year preceding the year in which planting is intended.

(2) The Department may coordinate with Oregon State University to make Notices of Intent available through OSU's crop isolation mapping system for informational purposes. OSU participation is voluntary and informational only.

603-052-0921 Violations

(1) The filing of a rule with the Secretary of State shall be considered an order for the purposes of ORS 570.410. No person may violate any control area rule governing the production of Brassicaceae in Oregon.

(2) Consistent with ORS 561.280 and 570.405 and in addition to any other lawful remedy, the Director may bring an action to enjoin the violation or threatened violation of any provision of

570.405 and 570.450 or its rules. Such action may be filed in the circuit court of Marion County or in the county in which the violation or threatened violation occurs or is about to occur. Consistent with applicable law, the relief requested may include, but is not limited to, an order for summary destruction of any rapeseed crop.

(3) Notice of Noncompliance and Plan of Correction. In addition to, or in lieu of, any action to enjoin enforcement of these rules, the Director may issue a Notice of Noncompliance and Plan of Correction to any person.

(a) A Notice of Noncompliance informs the person to whom the notice is directed of the violation, including a reference to the particular statute or administrative rules involved, and the location of the violation;

(b) A Plan of Correction directs the person to whom the plan of correction is directed to perform those actions necessary to comply with the particular statute or administrative rules involved;

(A) Specifies a reasonable period of time by which compliance is to be achieved not to exceed five (5) calendar days after the notice is received;

(B) May include requirements for the person to whom the plan of correction is directed to report the completion of specific actions;

(c) A Notice of Noncompliance and Plan of Correction is issued by the Director, is an order other than contested case for purposes of judicial review and must be served personally or by registered or certified mail.

(4) Failure to perform any of the requirements of a Plan of Correction may be considered by the Director as a failure to correct the violation within the period of time set for correction by the Director in the Notice of Noncompliance and Plan of Correction. The Department may impose a civil penalty of \$5,000 for each day a person fails to correct a violation after the deadline for correcting a violation as described in a Notice of Noncompliance and Plan of Correction.

(5) A Notice of Civil Penalty shall include a notice of right to a contested case as provided in ORS 183.415.

(b) A Notice of Civil Penalty shall allow a period of 30 days from the date of the notice for a request for a contested case hearing. A request for hearing shall be in writing, will be deemed

to be a general denial of the matters alleged in the notice, and shall be received at the Department by the deadline specified in the Notice of Civil Penalty.

(c) Contested case hearings shall be held in accordance with ORS Chapter 183 and OAR 137-003-0501 – 0700.

(d) The Director shall issue a Final Order in Contested Case. Review of a final order is pursuant to ORS 183.482.

(6) Specific violations in the Jefferson County Protected District. In addition to any other lawful remedy, the Department may assess a civil penalty of \$10,000 for each instance of a violation of OAR 603-052-0905(1) and a civil penalty of \$10,000 where it is determined that a person filed a materially false attestation in a Notice of Intent.