

Yurok Tribal Code, Air Quality

YUROK TRIBE AIR QUALITY ORDINANCE

Pursuant to its authority under Article IV, Section 5 of the Yurok Constitution, as certified on November 24, 1993, the Yurok Tribal Council hereby enacts the following ordinance establishing/ regulating air quality:

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GENERAL PROVISIONS

SECTION 4001. Authority

This Air Quality Ordinance (AQO) regulating and controlling the discharges of pollutants into the air of the Yurok Indian Reservation (YIR) is established by the Yurok Tribal Council (Council) under the authority delegated to it by Article IV, Section 5 of the Constitution of the Yurok Tribe (Tribe), as ratified on November 19,1993.

Article IV, Section 5 states in part "the Yurok Tribal Council shall have the authority to enact legislation, rules and regulations not inconsistent with the Constitution to further the objectives of the Yurok Tribe as reflected in the Preamble to this Constitution, [and to] enact civil and criminal laws".

Section 301 of the Clean Air Act, the Tribal Authority Rule, gives Tribes the authority to be treated in the same manner as states to carry out the provisions of the Clean Air Act.

Section 302 of the Clean Air Act, identifies that Tribes, and the agencies of Tribes, within the United States have the authority to act as Air Pollution Control Agencies.

Under the authority vested in Article IV, Section 5 of the Constitution of the Yurok Tribe AND PROVISIONS OF THE CLEAN Air Act the Yurok Tribal Council does hereby ordain as follows:

SECTION 4002. Purpose

This chapter establishes a procedure and penalties for the discharge of pollutants into the air within the exterior boundaries of the YIR. The discharge of pollutants on public and private lands within the exterior boundaries of the YIR is a public nuisance and hazard potentially jeopardizing the health, safety, and welfare of persons, property, and the environment within the exterior boundaries of the YIR. Furthermore, the discharge of pollutants into the air negatively impacts air quality within the exterior boundaries of the YIR.

SECTION 4003. Findings and Declarations

The Yurok Tribe Council finds and declares the following:

- (a) It wishes to reduce and control the discharge of pollutants into the air of the YIR.
- (b) Regulation and control of air pollution is necessary to maintain environmental integrity, political integrity, health and welfare of the YIR and YIR residents.
- (c) This Ordinance and all air pollution emissions are subject to review by the Yurok Tribe Environmental Department.
- (d) The Yurok Tribe Council maintains authority to amend this Ordinance or grant exemptions from provisions of this Ordinance.

SECTION 4004. Jurisdiction

- (e) The applicability of this AQO shall extend to all persons, whether Indian or non Indian, who discharge any pollutant into the air of the YIR.
- (f) Any person who enters within the exterior boundaries of the YIR shall become subject to this Ordinance and all rules, regulations, and applicable orders of the Tribe, and shall be deemed to have consented to the jurisdiction of the Tribe, and shall be subject to civil and or criminal jurisdiction in the Yurok Tribal Court for violations of this Ordinance and all applicable rules, regulations, and orders of the Tribe.

SECTION 4005. Definitions

For purposes of this AQO, the following words shall have the following meanings:

- (g) The term "air" means the ambient air, or atmosphere, external to buildings and contained within indoor areas, of the YIR.
- (h) The term "approved combustibles" means paper, cardboard, lawn clippings, yard waste, brush, trees, native vegetation, and other materials as approved by the Yurok Tribe Environmental Department, but shall not include hazardous or toxic materials, or any other material that would imperil or endanger the quality of the air of the YIR.
- (i) The term "Air Quality Burn permit" means a written approval, issued by The Environmental Department, to ensure air quality (pursuant to Tribal Code Section 4007), to burn approved materials in defined area(s). For burning to commence, Air Quality Burn permit must be acquired in conjunction with formal authorization from or approval by the Yurok Fire Department for burning on the YIR in accordance

with the provisions of this AQO.

- (j) The term "Burn season" means a time period, announced when open and closed by The Environmental Department based on overarching environmental conditions, that allow for burn plans to be carried out without unreasonable burden to permittees or the Tribe. For administrative and reporting purposes, burn season will default to July 1 – June 30 if conditions remain viable for burn and smoke management plans to be carried without interruption.
- (k) The Term "Campfire" means a fire which is used for cooking, personal warmth, lighting, ceremonial, or aesthetic purposes, including fires contained within outdoor fireplaces and enclosed stoves with flues or chimneys, stoves using jellied, liquid, solid, or gaseous fuels, portable barbecue pits and braziers, or space heating devices which are used outside any structure, mobilehome, or living accommodation mounted on a motor vehicle. "Campfire" does not include portable lanterns designed to emit light resulting from a combustion process.
- (l) The term "Tribal Council" means the Tribal Council of the Yurok Tribe.
- (m) The term "complainant" means any tribal member, Tribal Council member, The Environmental Department staff, other staff of the Tribe, or residents of the YIR who submits a written complaint to The Environmental Department, signed under penalty of perjury, of a violation of this AQO, any rules or regulations promulgated pursuant thereto, or any conditions of a Burn permit, in accordance with the procedures set out in section 10, below.
- (n) The term "Cultural burn" or "cultural burning" means the intentional application of fire spirit to land by the Tribe, tribal member(s), or a cultural fire practitioner to achieve cultural stewardship, goals or objectives of the Tribe, including for sustenance, biodiversity, or other benefits, as Yurok people have "practiced our stewardship of the land in the prairies and forests through controlled burns that improve wildlife habitat and enhance the health and growth of the tan oak acorns, hazelnuts, pepperwood nuts, berries, grasses and bushes, all of which are used and provide materials for baskets, fabrics, and utensils." (Constitution of the Yurok Tribe, Preamble).
- (o) The term "Cultural fire practitioner" has the same meaning as the definition of "Yurok cultural practitioners" found in Chapter 14, Cultural Resource Protection: any person of Yurok affiliation engaging in or demonstrating knowledge of traditional Yurok cultural practices.
- (p) The term "energy efficient and low-emission wood burning stove or other heating system" means a wood burning stove or other heating system, including those powered by electricity or natural gas, which uses at least twenty-five (25) percent less energy, and generates at least twenty-five (25) percent less emissions than standard models.
- (q) The term "fire suppression equipment" means any substance (water, sand, fire retardant etc.) or equipment (shovel, fire extinguisher, etc.) in such quantity and quality to adequately suppress the outbreak of an open fire.
- (r) The term "forest fire" means a fire burning uncontrolled on lands covered wholly or in part by timber, brush, grass, grain, or other flammable vegetation.

(s) The term "hazardous material" means any material, or combination of materials, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

- (1) cause, or significantly contribute to, an increase in either mortality or serious, irreversible, or incapacitating reversible, illness; or
- (2) pose either a substantial present, or potential, hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
- (3) The term "hazardous material" shall include, but is not limited to, the following:
 - (i) all plastics, foam, and styrofoam, as those terms are commonly used, that is no longer being used or has been discarded;
 - (ii) hazardous waste as defined in 40 C.F.R. section 261.3, as amended from time to time;
 - (iii) any hazardous air pollutant listed under the Clean Air Act, as codified in part at 42 U.S.C. section 7412, as amended from time to time; and
 - (iv) any hazardous substance contained in 49 C.F.R. section 172.101, Appendix A (List of Hazardous Substance and Reportable Quantities), as amended from time to time.

(t) The term "imminent fire hazard" means a hazard which presents an immediate danger to the health and/or safety of a person(s), property, or wildlife.

(u) The Term "open fire" means any fire, controlled or uncontrolled, including a campfire, burning outside of any structure, mobile home, or living accommodation mounted on a motor vehicle. "Open fire" does not include portable lanterns designed to emit light resulting from a combustion process.

(v) The term "person" means any individual, corporation, firm, partnership, joint venture, association, social club, estate, trust, the United States, Tribe, State, county, city, district or other political subdivision of any state, or any other group or combination acting as a unit.

(w) The term "pollutant" means any substance that will alter the quality of the air of the YIR, but shall not include:

- (1) air emissions from outdoor fires ignited pursuant to a burn permit;
- (2) air emissions from outdoor fires exempted from the burn permit requirements; and
- (3) air emissions from indoor fires normally associated with residential/domestic or business practices, but not including the burning of hazardous materials or any other substances that could imperil or endanger the quality of the air of the YIR.

- (x) The term "air quality" means any chemical, physical, biological, bacteriological, radiological, and other properties and characteristics of air.
- (y) The term "Reservation" means all land, air, and water located within the exterior boundaries of the YIR.
- (z)  The term "Tribe" means the Yurok Tribe, a federally recognized Indian tribe.
- (aa) The term "uncontrolled fire" means any fire which threatens to destroy life, property, or resources and either: (1) is unattended by any person; (2) is attended by persons unable to prevent its unrestricted spread; or (3) is burning with such velocity or intensity that it could not be readily controlled with those ordinary tools available to private persons at the fire scene.
- (bb) The term "violation" means any violation of this AQO, any orders of The Environmental Department enforcing this AQO, or any conditions of a burn permit.
- (cc) The term "violator" means any person who The Environmental Department finds has committed a violation. The term "alleged violator" means any person alleged to have committed a violation.

SECTION 4006. Principal Air Quality Provisions

- (dd) No person shall set, or allow to be set, any forest or open fire(s) within the YIR without a valid burn permit issued by The Environmental Department (SECTION 7.0).
- (ee) Fires set to improve cultural or ceremonial resources of the Tribe will go through the Burn permit process, but fees shall be waived.
- (ff) The Tribe has created a Tribal Smoke Management Plan (SMP), which will details the functions of a Tribal Smoke Management Program, including the issuance of air quality burn permits.
- (gg) The Tribal Smoke Management Program, through a Smoke Management Coordinator (SMC), shall be responsible for soliciting, reviewing, approving, and tracking burn permits for properties within the boundaries of the YIR.
- (hh) The following are exempted from the permit requirements of SECTION 4007.0:
 - (1) Fires used only for the cooking of food for human consumption, including fires used for smoking or curing of foods. 
 - (2) Campfires or cultural, ceremonial, religious fires recognized by the Tribe, so long as those fires are attended to and fire suppression equipment is at hand. Exempted fires are limited to those of a non-spreading variety less than three feet in diameter.
 - (3) Fires set or permitted by any authorized public officer when such fire is necessary for any of the following purposes:
 - (i) The prevention of an imminent fire hazard.
 - (ii) The setting of backfires necessary to save life or property.
- (ii) Energy Efficient and Low Emission Stove and Heating System Program

- (1) Any person installing or replacing a wood burning stove or other heating system in a residence, business, or tribally-owned facility within the YIR must install an energy efficient and low emission stove or other heating system from a list of approved models prepared and maintained by The Environmental Department. The Environmental Department is authorized to grant waivers to persons for whom compliance with this requirement shall create a severe and undue economic hardship.
- (2) The Environmental Department shall prepare and maintain a list of energy efficient and low emission stove and heating systems that are approved for compliance with subsection 6.6.1, above. The Environmental Department shall strive to include affordable models of energy efficient and low emission stove and heating systems on the list of approved such appliances and systems. Such list shall be maintained for use by, and shall be made available upon request by, tribal members and residents of the YIR.
- (3) The Environmental Department shall seek to secure grant funds, including low-interest loans, from outside sources to assist persons who must comply with the requirements set out in subsection 6.1 and 6.2, above,
 - (A) Who are low-income; or
 - (B) For whom compliance with this requirement will create an economic or financial hardship.

The lack of availability of such funds shall not excuse compliance with the requirements of subsection 6.6.1 and 6.6.2, above.

(jj) Notification

Any person who discharges any pollutant into the air of the YIR shall immediately, but in any case not less than twenty-four (24) hours from the time of the discharge, notify The Environmental Department or Yurok Tribe Public Safety of said discharge; and shall fully disclose to The Environmental Department all information regarding the discharge, including , but not limited to, the type of pollutant discharged; the amount of pollutant discharged; the location of the discharge; and any other information required by The Environmental Department. For those without telephone service for whom contacting The Environmental Department or YTPS within 24 hours would create a hardship, notice must be made as soon as practicable.

(kk) Notice to The Environmental Department under this subsection is not required for:

- (1) Air emissions from outdoor fires conducted pursuant to a Burn permit, unless notice is required as a condition of a Burn permit;
- (2) Air emissions from outdoor fires exempted from the Burn permit requirements ; and
- (3) Air emissions from indoor fires normally associated with residential/domestic or business practices, but not including the burning of hazardous materials or any other substances that could unreasonably imperil or endanger the quality of the air of the YIR.

(ll) The initial notice of discharge or other prohibited activity required by subsection 6.7, may be delivered orally to The Environmental Department in person or over the phone. However, within three (3) days of providing oral notice of a discharge, written notice of the discharge must be provided to The Environmental Department. All other information required to be provided to The Environmental Department under subsection 6.7 must be delivered to The Environmental Department in writing or orally.

(mm) Clean-up and Abatement

Any person who discharges any pollutant into the air of the YIR shall be liable for all costs associated with, or necessary to clean up, abate, and/or mitigate effects to the air of the YIR; and restore the quality of the air of the YIR to the condition of the air as it existed immediately prior to the discharge.

(nn) Authorized Activities of The Environmental Department and Yurok Tribe Public Safety

The Environmental Department, YTFP, and YTPS staff are authorized and directed to conduct the following activities to enforce the provisions of this Ordinance:

- (1) Issue citations (Yurok Tribal Police) or notices of violation (The Environmental Department, YTFP) under section 11 of this Ordinance.
- (2) Enter at reasonable times into, on, or through any public or private property to conduct routine inspections to monitor compliance with the provisions of this Ordinance, and any rules or regulations promulgated pursuant to this Ordinance.
- (3) Provide to the relevant fire control agencies information on burning activities within the YIR.
- (4) Coordinate with Tribal and local land management agencies, as needed, to enforce the provisions of this ordinance.
- (5) After providing for comment as necessary, promulgate rules and regulations as may be necessary to carry out the spirit and letter of this Ordinance, including :
 - (A) Imposing restrictions , requirements, controls, and prohibitions regarding regulated activities; and
 - (B) Defining and designating, by map, areas of the YIR where outdoor fires and burning of certain materials are limited, restricted or prohibited for the protection of human health, natural resources, cultural resources, and/or the environment.
- (6) Work cooperatively with other tribes and federal, state, county and municipal governments to:
 - (A) Coordinate activities and cooperate with such other governments as have similar or related responsibilities within their respective jurisdictions;

(B) Develop intergovernmental agreements as appropriate for optimal coordination, cooperation, enforcement and assistance in carrying out this Ordinance and protecting the health and safety of the residents and the environment of the YIR, provided that the Tribal Council shall have the ultimate authority to execute and enter into any such intergovernmental agreements.

(oo) Prohibited Activities

- (1) No person shall violate any provision of this Ordinance or any rule or regulation adopted pursuant to this Ordinance.
- (2) No person shall violate any condition of a burn permit, including:
 - (A) Burning on a designated no-burn day.
 - (B) Burning after approved hours.
 - (C) Failing to have certified staff on-site at a burn, when required by this Ordinance.
 - (D) Failing to mark roadways during a burn, when warranted.
 - (E) Inundating sensitive areas with smoke.
 - (F) Taking longer than two hours during a burn to correct a problem identified by SMP or other enforcement personnel.
 - (G) Failing to respond to directives given by enforcement personnel pursuant to this ordinance or the SMP.
- (3) Discharging any pollutant into the air of the YIR.
- (4) Burning or incinerating any hazardous material or pesticide anywhere within the YIR.
- (5) Knowingly making false statements during, or after, an inquiry by The Environmental Department, or aid, abet or conspire with a person to evade the provisions of this Ordinance.
- (6) Engaging in a regulated activity in a faulty, careless or negligent manner.
- (7) Using fraud or misrepresentation in making an application for, or for renewal of, a Burn permit.

SECTION 4007. Air Quality Burn Permit Process

(pp) Any Air Quality burn permit issued by The Environmental Department must conform to the following requirements:

- (1) Air Quality Burn permits for open outdoor fires may be issued only for the disposal of approved combustibles.
- (2) Air Quality Burn permits shall only be issued to persons 18 years of age or older residing on, or owning, property within the YIR.
- (3) The Air Quality Burn permit shall be valid for no more than one year, and shall expire on the last day of the current calendar year.

- (A) The Tribal Council has designated The Environmental Department as the Tribal department charged with enforcing the terms of this ordinance. The Environmental Department shall not issue a Air Quality Burn Bum permit to applicants:
- (B) Who have been cited for violations of this AQO where The Environmental Department determines that such violations indicate the applicant could pose a threat to the health and safety of the residents or environment of the YIR;
- (C) Who have been cited for violations of the air provisions of the tribal Nuisance Ordinance where The Environmental Department determines that such violations indicate the applicant could pose a threat to the health and safety of the residents or environment of the YIR;
- (D) Whose previous burning activities have imperiled or endangered the quality of the air of the YIR; and
- (E) Where The Environmental Department determines that, due to meteorological conditions, the burning proposed by the applicant could cause smoke to create or contribute to a violation of a Tribal or federal air quality standard, imperil or endanger the quality of the air of the YIR, or create a nuisance as defined in the tribal Nuisance Ordinance.

(4) The Environmental Department may include any condition(s) in the Air Quality Burn permit it deems necessary to protect the quality of the air and the health and safety of the residents and/or environment of the YIR. The Environmental Department may include in the Air Quality Bum permit the following conditions, and any other conditions The Environmental Department deems necessary:

- (A) Burning may only occur on permissive burn days, as determined by The Environmental Department in coordination with the California Air Resources Board, North Coast Air Quality Management District, and local government agencies;
- (B) The waste to be burned shall be reasonably free of dirt, soil and excess moisture and, whenever possible, shall be piled in such a manner as to burn with maximum possible heat intensity and minimum smoke.
- (C) The waste to be burned shall be free of tires, tarpaper, garbage or other types of rubbish likely to cause excessive smoke or odor.
- (D) The waste to be burned shall be allowed to dry for the following minimum time periods before burning:
- (E) Trees and branches over six (6) inches in diameter - thirty (30) days;
- (F) Brush, vines, bushes, pruning and small branches - fifteen (15) days;
- (G) Field crops, lawn clippings and weeds - seven (7) days; and

(H) Other materials - drying times will be determined by The Environmental Department on a case-by-case basis.

SECTION 4008. Entry and Inspection

For purposes of carrying out this Ordinance, The Environmental Department, or its designated agent may enter public or private premises at reasonable times by permission or warrant obtained from the Yurek Tribal Court for sampling, inspection, and observational purposes.

SECTION 4009. Citations

The provisions of this Ordinance shall be enforced by The Environmental Department. Any The Environmental Department employee, Tribal Public Safety Officer, SMC or any person officially appointed by the Council in consultation with the Director of The Environmental Department may issue the following for violations:

- (qq) Cease orders, Citations, or Notices of Violation: Upon determination that any person is violating the provisions of this Ordinances, a cease order, citation, or notice of violation will be served.
- (rr) It shall be a civil offense, for which a fine of not less than \$100.00 shall be assessed, to obstruct or otherwise interfere with investigative or other activities of any agent or officer of the Tribe carrying out this Ordinance.

SECTION 4010. Enforcement Process

- (ss) The Environmental Department is charged with conducting investigations, including inspections of relevant properties, of violations of this Ordinance or any conditions of a Bum permit.
 - (1) Investigations of such violations by The Environmental Department shall be initiated upon the filing of a written complaint, signed under penalty of perjury, by tribal members, Tribal Council members, Tribal Environmental Department Office staff, Tribal Police Officers, other staff of the Tribe, or residents of the YIR.
 - (A) The written complaint shall be submitted on a form developed by The Environmental Department and shall include, at a minimum, the following information:
 - (i) name of the complainant;
 - (ii) date and time of the alleged violation;
 - (iii) location of the alleged violation; and
 - (iv) a brief description of the factual basis for the complaint.
 - (2) The written complaint must be submitted to The Environmental Department, during normal business hours, within six (6) months of the alleged violation.
 - (3) The Environmental Department shall initiate an investigation of the complaint within ten (10) days of receiving the complaint, upon a finding

that the complaint sets forth a reasonable basis for believing that a violation has occurred.

(tt) Following an investigation, if The Environmental Department determines that a violation has occurred, The Environmental Department may take any one of the following actions which it deems most appropriate considering the gravity of the offense, any harm to human health or the environment resulting from the violation, and the circumstances of the person committing the violation:

- (1) Informally contact any alleged violator about possible violations of this Ordinance, or practices which may result in violations of this Ordinance, to assist the alleged violator in adhering to practices which protect air quality and comply with this Ordinance;
- (2) Issue a warning of violation, in the form of a letter from The Environmental Department to the alleged violator, explaining the basis for the warning; possible measures which the alleged violator may take to mitigate the basis of the warning; and an explanation of the steps The Environmental Department may take if the alleged violator does not take positive corrective action;
- (3) Assess a civil fine or penalty as described in section 11, against the alleged violator, following the procedures set out in section 10.3, below; and/or
- (4) Upon a finding that a violation is taking place or appears imminent, and that such activity if allowed to proceed will present an immediate hazard or cause irreparable damage, may issue an order to the person responsible for such activity to cease and desist from further commission of such violation, following the procedures set out in section 10.3, below.

(uu) The following procedures shall govern enforcement actions taken pursuant to sections 10.2.3 and 10.2.4, above:

- (1) The Environmental Department shall issue a notice of violation, describing with particularity; the violation and the proposed penalty, or other enforcement action, to the person who is charged with the violation.
 - (A) The notice of violation shall be served by personal service or U.S. certified mail, return receipt requested. Notice shall be considered received on the date of personal service or three (3) days after the date the notice is dispatched by U.S. mail.
 - (B) The notice shall include a warning that if the person does not respond within seven business (7) days of the date of receipt, the assessed civil penalty or other enforcement action will become permanent, and the person will lose all rights to appeal.
- (2) Within seven (7) days of receipt of the notice of violation, the person who is charged with the violation may submit a written request for a hearing on the proposed enforcement action described in the notice of violation. Hearings will take place in Yurok Tribal Court.
 - (A) If a hearing is requested, Yurok Tribal Court must hold the hearing within thirty (30) days of receiving the request. If the person

requesting the hearing makes a showing, supported by a declaration or other written documentation, in the request for hearing submitted to The Environmental Department that the proposed enforcement action will result in great financial loss or harm to person or property before The Environmental Department is required to hold a hearing, The Environmental Department may hold a hearing immediately, or may delay or reverse any enforcement action until The Environmental Department holds the requested hearing.

- (B) If the alleged violator does not request a hearing within seven (7) days of receipt of the notice of violation, an assessed civil penalty or other enforcement action will become permanent and the person shall lose all rights to appeal.
- (3) At any hearing before Yurok Tribal Court, the alleged violator must come forward with evidence, including declarations, written documents, and statements by witnesses, indicating that the finding of violation is erroneous as described in the notice of violation. Within fifteen (15) days of the hearing, Yurok Tribal Court shall issue a decision on whether to affirm the proposed penalty, or other enforcement action described in the notice of violation.
 - (A) Yurok Tribal Court shall serve a written notice of the decision on the violator. The notice of decision shall be served by personal service or U.S. certified mail, return receipt requested. Notice shall be considered received on the date of personal service or three (3) days after the date the notice is dispatched by U.S. mail.
- (4) The decision of Yurok Tribal Court may be appealed using the Yurok Tribal Court appellate procedure

- (vv) The Environmental Department and/or the Tribal Court, or a representative authorized by either body, may institute proceedings in Tribal Court to enforce a penalty issued by The Environmental Department and/or upheld by the Tribal Court on appeal.
- (ww) This ordinance in no way restricts an individual's or the Tribe's right to file suit against a party in Tribal Court for damages incurred from the emission of air pollutants or the open burning of any materials.

SECTION 4011. Civil Penalties

- (xx) Any person discharging any pollutant into the air of the YIR or engaging in any other activity prohibited under this Ordinance is subject to a civil fine in an amount not to exceed five thousand dollars (\$5,000.00) for each day in which the violation occurs, to be assessed by The Environmental Department. In addition to any monetary fine, any person violating the provisions of this Ordinance regarding Air Quality Burn permits is subject to a civil penalty of suspension, revocation, non-renewal, or denial of a burn permit, to be assessed by The Environmental Department.
- (yy) In determining the type and amount of the penalty and/or fine, The Environmental Department shall consider the appropriateness of such fine and/or penalty in light of the gravity of the violation, any effects on human health or the environment

resulting from the violation, the size of the business of the person charged, and the effect on the person's ability to continue in business.

SECTION 4012. Criminal Penalties

Any individual violating any provision of this Ordinance may be guilty of a crime. All criminal violations shall be referred to the U.S. Environmental Protection Agency or other agency for further action.

SECTION 4013. Civil Damages and/or Injunctive Actions

In the event that any person, as a result of his or her violations of this Ordinance, should proximately cause any physical damage to any other person(s) residing within, or to any real or personal property situated in the YIR, The Environmental Department or the person(s) adversely affected shall have the right to seek monetary and/or injunctive relief in any judicial forum of competent jurisdiction.

SECTION 4014. Environmental Protection Fund

- (zz) Any monies collected by the Tribe as a result of violations of this Ordinance shall be deposited with the Tribe to be credited to the Environmental Protection Fund.
- (aaa) The Environmental Protection Fund shall be used for expenses related to protecting human health and the environment within the YIR, enforcing the provisions of the various environmental ordinances adopted by the Tribe, promoting environmental projects, and furthering environmental education for tribal members and residents of the YIR.

SECTION 4015. Severability

If any provision of this Ordinance or the application, thereof, to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without regard to the invalid provision or application and to this end the provision of this Ordinance are severable.

SECTION 4016. Sovereign Immunity

The sovereign immunity of the Tribe is in no manner waived by this Ordinance or by any action by the Tribal Council, The Environmental Department, or other staff of the Tribe acting pursuant to this Ordinance.

SECTION 4017. Amendments

This Ordinance may be amended at any time by the Tribal Council.

SECTION 4018. Effective Date

This Ordinance shall take effect immediately upon passage.

Yurok Tribal Code, Smoke Management Plan

YUROK TRIBE SMOKE MANAGEMENT PLAN

Pursuant to its authority under Article IV, Section 5 of the Yurok Constitution, as certified on November 24, 1993, the Yurok Tribal Council hereby enacts the following ordinance establishing/regulating smoke management:

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INTRODUCTION

SECTION 4001. Jurisdiction

The Yurok Tribe (Tribe) maintains jurisdiction over burning activities within the exterior boundaries of the Yurok Indian Reservation (YIR). Such jurisdiction shall be exercised to the fullest extent, including issuing Tribal burn permits, burn advisories, monitoring program compliance, and issuing notices of violations.

In the interest of exercising this jurisdiction over the air resources of the YIR, the Council of the Yurok Tribe (Council) approved the Air Quality Ordinance (AQO) on 7 April 2005. This document, attached as Appendix A, details the Tribe's sovereign powers, enables this Smoke Management Program (SMP), and sets restrictions on activities impacting the air quality of the YIR and penalties for violations of those restrictions.

SECTION 4002. Purpose

The purpose of this SMP is to establish policies and procedures to control timber and agricultural field burning, wildland fire, domestic burning or cultural burning. It is in the interest of the Tribe to encourage responsible burning activities that minimize impacts on the health and visibility within the YIR and its surrounding areas. The SMP will be operated in cooperation and coordination with Tribal, federal, state, and local jurisdictions in both Humboldt and Del Norte Counties. The SMP will conform to air quality regulations as applicable.

SECTION 4003. Smoke Management Goals and Objectives

As a basis for developing its burning emissions control effort, the Yurok Tribe adopts the following goals and objectives:

- (a) To conduct prescribed burns only when weather conditions are conducive to good smoke dispersion.
- (b) To protect identified smoke-sensitive areas and minimize adverse effects on local air quality or visibility impacts due to burning operations.
- (c) To respond quickly to smoke-caused problems and adjust operational procedures as necessary to prevent reoccurrence.
- (d) To keep the general public informed of burning progress on a daily and seasonal basis through use of public information releases and public notification media

pathways (automated telephone information line, the internet, local news media, radio, etc.).

- (e) To restrict unnecessary burning and encourage utilization of alternate methods of disease control, production enhancement, and waste disposal.
- (f) To promote cooperation with Tribal, Federal, State, and local agencies responsible for controlling air quality in surrounding areas and strive for consistency to ease interagency relations.

SECTION 4004. Coordination with Existing Guidance

This document is designed to meet criteria established by the United States Environmental Protection Agency (USEPA) in the *Interim Air Quality Policy on Wild/ and Prescribed Fires (J 998)* for certification as a Smoke Management Plan. In the future, the Tribe may incorporate this document into their Tribal Implementation Plan under the Air Quality Program of the Tribe.

In their Interim Policy, the USEPA identifies seven components required for an SMP.

Component:	Found here in Section:
Authorization to Burn	2, 5, 6, 7
Minimizing Air Pollution Emissions	5, 6
Smoke Management Components of Burn Plans	5, 6, 7
Public Education and Awareness	2
Surveillance and Enforcement	2, 5, 6, 7
Program Evaluation	2, 4, 5, 6, 7
Optional Air Quality Protection	not presently implemented

SECTION 4005. Background

Burning timberlands, agricultural areas, wildlands, and domestic waste has been a common practice not only on the YIR, but also within surrounding communities. Smoke management is the practice of restricting open burning to those periods when atmospheric and field conditions are appropriate, thus minimizing adverse impacts on the general population in smoke-sensitive areas and on nearby Class I Airsheds within the boundaries of the Redwood National Park. The Tribe's SMP will strive to effectively coordinate and monitor all field burning activities.

A successful SMP requires three activities to be conducted with reliability and accuracy:

- a. Forecasting meteorological conditions, and

- b. Communicating forecast and burn advisories, and
- c. Burning in accordance with burn advisory restrictions.

All three activities require responsible judgment and action. To minimize the possibility of undesirable results, SMP staff will continually work to reduce errors in routine operations and to enhance the overall SMP.

Efforts to enhance the SMP include the development of more precise data gathering methods and equipment; utilization of more sophisticated forecasting techniques; better communications procedures; and increased training, outreach, and education to make burning results more predictable.

SECTION 4006. Classification

The Tribe recognizes that all types of fire contribute to regional haze. Congruent with the Regional Haze Rule set by the USEPA, the Tribe sets the following standards for classification of fire types as part of the natural background conditions for air quality, or as contributors to anthropogenic regional haze:

<u>Fire Type</u>	<u>Classification</u>
Fires for native ecosystem maintenance	Natural
Fires for native ecosystem restoration	Natural
Fires for cultural, ceremonial, or religious purposes	Natural
Fires for land management	Anthropogenic
Fires for disease treatment or prevention	Anthropogenic
Wildfires managed for resource objectives	Anthropogenic
Wildfires with limited management for health or safety	Natural

PROGRAM OPERATIONS

SECTION 4101. Program Organization

The SMP will be implemented and monitored by the Smoke Management Coordinator (SMC), an employee of the Tribe within the Yurok Tribe Environmental Department, with assistance from other staff as necessary.

Staff of The Environmental Department including, but not limited to the SMC, will accept applications, register permits, collect fees, authorize burning, and maintain a database of appropriate information.

The Environmental Department will be responsible for the operation and maintenance of air quality samplers, both stationary and mobile, and will monitor major burning activities to assure that no air quality standards are being violated.

SECTION 4102. Permit Process

The SMC will be responsible for responding to queries for forms, assisting landowners in completing appropriate forms, and processing, documenting, filing, ,approving or disapproving applications for air quality burn permits, and forwarding information to the Yurok Tribe Fire Department for burn permit processing, as applicable. The SMC is additionally responsible for providing follow-up on approved applications after burning activities have been completed to collect necessary post-burn information. Further information about the permit process is included in Sections 5, 6 and 7 below, providing information for users of the system.

SECTION 4103. Burn Advisories

The SMC will be responsible for issuing daily burn forecasts based on weather forecasting available for the YIR area and updating that information as needed. Under normal operating conditions, the general forecasts for each area will be issued each day by 9:00 am. A discussion of various aspects of daily burn forecasts is presented in subsequent sections.

(g) Burn Advisories

Prior to ignition of any materials, advisories for conducting such burning must be obtained by the SMC. Advisories will be based on field registration and burn permit data and forecasted meteorological conditions. The SMC is solely responsible for assessing the conditions in order to issue burn advisories within the YIR.

In addition to identification of areas affected and the earliest and latest ignition times, advisories may also include registrations or guidance regarding fuel conditions, wind speed, wind direction, ignition methods, or other factors important to smoke dispersion.

The SMC will take into account the following factors in approving a burn day:

- (1) Ventilation Conditions, including surface and transport wind speed and direction, prevailing visibility, amount and location of acreage already authorized.
- (2) Plume characteristics, including mixing depth, atmospheric stability.
- (3) Downwind impact area concerns.
- (4) Field conditions, including fuel type, moisture content, burning monitoring crew resources, field conditions, types of communications available.
- (5) Air quality considerations, including effects on visibility, particulate loading,

and exposure time.

- (6) Synoptic conditions, including high/low pressure areas, approaching fronts, and precipitation probabilities.
- (7) Burn status of neighboring Tribal and local jurisdictions.

Though burning may not be advised due to one or more of these factors, burning releases are not tied to, or limited by, specific values for mixing height, fuel moisture content, or other parameters.

Advisories prepared by the SMC will be based on general atmospheric dispersion conditions, which, over suitable transport distance, are reasonably predictable.

Dispersion forecasts and related advisories regarding burning may not necessarily be appropriate or safe considering specific conditions at a given site. If necessary, burning advisories issued by the SMC will be amended as weather conditions, ambient smoke levels , or other factors change. These amendments will be communicated by telephone, radio, or in person upon request of the affected permit holders.

A diary of advisory records will be maintained for use in subsequent smoke intrusion analysis or enforcement actions.

Notifications of the beginning and end of a burn season or in-season adjustments will be via Council declaration and distributed via internet posting, radio public service announcements, and physical postings in administration offices as available.

 (h) Communication

Routine communication regarding burn activities, including bum advisories, will be handled by internet posting, email, phone or radio when available. Information may include weather observations, smoke drift observations, progress of burning and availability of additional burning.

The National Oceanic and Atmospheric Administration (NOAA) National Weather Service broadcasts weather data on 162.400 MHz out of Eureka, California.

SECTION 4104. Location, Amount, and Timing of Burns

The location, amount, and timing of any burning to be conducted will be based on the SMC's judgment of downwind effects and acceptable air quality. Every effort will be made to make the burn season for agriculture, timber, and wildland burning as short as possible.

SECTION 4105. Best Management Practices

The SMC will be responsible for compiling a library of Best Management Practices (BMPs) for both the SMP and for land managers in working under this SMP and under the AQO. These BMPs will be formally adopted by the Tribe where necessary and will be available to land managers in their preparation of burn plans. Land managers will be encouraged to utilize BMPs wherever feasible.

SECTION 4106. Surveillance and Enforcement

The application for, and receipt of, an Air Quality Burn permit from the SMC indicates consent for surveillance of burning activities and allows surveillance personnel to enter onto properties under active burn. Surveillance personnel include Environmental Department staff, Yurok Tribal Police Officers, Fire Department Officers, and the SMC. The SMC is responsible for basic burning surveillance and complaint investigation, and may notify Environmental Enforcement staff or the Yurok Tribal Police if they believe that the AQO has been violated. The Yurok Tribal Public Safety Department may also independently investigate complaints, confirm permits for active burns, check certifications on-site at burns, and issue citations as necessary under the jurisdiction given through the AQO.

The surveillance and enforcement element of the SMP is intended to keep permit applicants in compliance with the Tribal AQO. As indicated in the AQO, penalties for repeat violators and violators exceeding the National Ambient Air Quality Standards (NAAQS) standards are the most severe.

SECTION 4107. Public Involvement

(i) Public Education

The SMC will be responsible for coordinating an aggressive program to educate residents and property owners on the YIR on topics such as domestic burning do's and don'ts; how to file complaints about smoke intrusion in sensitive areas; availability of certification courses; the AQO and its enforcement; and other topics deemed appropriate. Educational conduits will include print media, radio, television (if possible), signage, and meetings.

(j) Petition for Special Status Designation

Members of the community with health conditions making them sensitive to changes in local air quality may petition the SMP for designation as a Smoke Sensitive Location (SSL). The SMC is responsible for maintaining a spatial database with each SSL identified, to be used in the decision-making process for burn permits and burn advisories. Community members will be notified of their ability to petition the SMP through local media outlets, as well as through community meetings and advertisements at local health centers.

(k) Project Comment

The input of the community will be solicited on each proposed agriculture/timber/ wildlands burning project. Members of the public will be encouraged to visit a website or call a telephone number for information on upcoming burns and will be given information on how and when to comment. For projects over 20 acres in size, projects near smoke sensitive areas, or projects which may impact air quality for more than one day, the public will be given at least five (5) days prior to a burn to comment on the project. For all other projects, at least five days will be given for comment. Emergency burns will be approved on a case-by-case basis and public comment on emergency burns may be collected and received after burning has occurred.

(l) Program Evaluation

Public input will be received throughout the burn season. One method of input will be through complaints, praises, or other comments on specific burning projects.

Additionally, public comment will be solicited through community meetings, newsletters, and media announcements to obtain input evaluating the previous year's burning activities. This evaluation will preferably take place prior to commencement of the subsequent year's activities, to allow for comments to be incorporated into program design.

METEOROLOGICAL AND AIR QUALITY PARAMETERS

SECTION 4201. Synoptic Weather Data

General meteorological data for the SMP will be obtained from the National Weather Service Office by direct computer linkage. The SMC will develop burning recommendations according to general forecast guidelines.

Burn forecasts may be updated throughout the day by the SMC based on an assessment of current and forecasted plume transport and dispersion conditions.

SECTION 4202. Wind

Wind direction and wind speed data will be determined chiefly through:

- (1) Available local meteorological data sources (available on-line),
- (2) Visual tracking of smoke plume movements, and
- (3) Remote wind observation sites accessible on-line or by telephone.

Information will be recorded on appropriate forms and diaries. Accurate wind direction predictions may be the most critical factor in effective smoke management. The predicted wind direction establishes which areas shall be allowed to burn to avoid impacts on smoke sensitive areas.

Since wind direction varies with altitude, the determination and forecasting of winds at all levels anticipated to contain smoke is important. Upper level transport winds will carry a substantial

portion of pollutant materials. Since time is required for smoke to mix through all levels, initial impacts may occur far downwind of the burn site.

(m) Surface Winds

Wind flows at the surface will be developed based on wind observations augmented by smoke observations and experience with local terrain-induced flow phenomena.

(n) Upper Wind Levels

From this data, allowing for transverse horizontal dispersion, potential impact areas at long distances (10 to 60 miles downwind) will be identified for proposed burning. If such trajectories indicate substantial impact on sensitive areas, burning will be restricted accordingly in proposed areas. Often the "backward" plume effect will be applied to the wind flow field to determine areas from which burning emissions would cause receptor impacts. To provide for adequate transport and dispersion wind speeds above the surface (2,000 - 10,000 feet) should be 5-20mph and generally increase with height.

SECTION 4203. Inversions and Mixing Heights

Inversions and vertical dispersion information for the SMP will be determined from the closest early morning rawinsonde measurements available. Other useful information on upper level winds and stability will be sought from the National Weather Service throughout the day as conditions may warrant.

SECTION 4204. Field Fuel Moisture Conditions

In general, determination of proper field fuel moisture conditions for burning will be left up to individual permit holders, including periods following light rainfall and nighttime periods of high relative humidity and dew.

SECTION 4205. Precipitation

Generally, field burning is not conducted during periods of precipitation or some time after. As a rule of thumb, one day of drying time is required for each I / I O of an inch of rainfall received. However, drying period conditions may vary from site to site depending on site location and timing of precipitation within the burning season.

SECTION 4206. Visibility

Prevailing visibility and the nature of visibility impairment will be factors considered when burn advisories are prepared and issued. In particular, whenever, in the absence of high humidity or rain, prevailing visibility is less than 5 miles, general burning will be strictly limited. Every effort will be made to avoid smoke impacts on the Klamath airport.

SECTION 4207. Air Stagnation Advisories

Air stagnation advisories are issued by the California Air Resources Board when atmospheric dispersal conditions are poor for an extended period of time (36 hours or more) and buildup of air pollutants is expected. All open burning is prohibited when such an advisory is in effect. If the SMC determines that a local air stagnation advisory is warranted for areas of the YIR, such an advisory will be issued and burning will be prohibited.

SECTION 4208. Air Quality Monitoring

The Tribe conducts routine air quality monitoring at stationary or mobile sampling equipment throughout the YIR in smoke sensitive communities:

Routine Tribal air quality monitoring consists of continuous sampling for PM- 10 and PM-2.5 (particulate matter of 10 and 2.5 microns in size). The air quality sampling program also conducts monitoring for compliance assurance and to record unusual air quality events.

The Tribe may use standards set by the State of California in making air quality determinations.

The air quality monitoring program will continue in the same manner during the burn season, and the results of sampling will be used to make determinations on compliance with air quality standards and the success of this SMP in protecting smoke-sensitive areas from harmful air quality.

SECTION 4209. Complaints

Complaints are an indirect measure of air quality and will be used by the SMC in identifying smoke-affected areas where burn impacts may need to be reduced.

All public comments will be recorded in a diary kept by the SMC. Documented complaints provide important additional information when planning burning advisories and analyzing the impacts of burning activity. Accordingly, the SMC will receive and respond to such complaints, to the extent that such activity does not compromise overall program management needs.

PROGRAM DOCUMENTATION

Well-organized records of weather data, air quality data, burn advisories, permits applied for and issued, educational forum attendance records, fee schedules and payment records, and acreage accomplishments will be maintained on a daily basis. Such records will establish a database to be used for subsequent program evaluations, improvement and quality assurance, as well as supporting burn management decisions.

Standardized procedures will be adopted for the gathering of information and issuance of advisories. These procedures will be facilitated through use of standard forms, logs, checklist, and flow diagrams.

SECTION 4301. Annual Reporting

Data obtained throughout the burn season will be summarized in an annual report. This report will be utilized to analyze the success of each year's SMP. This report will include data collected by the SMC, data obtained from land managers, monitoring data, enforcement data, and public comments. The report will be available to the community no more than six months following the close of a burn season.

SECTION 4302. Plan Review

Following preparation of the annual report, the SMP will be reviewed for accuracy, attainability, and completeness and revised as appropriate.

SECTION 4303. Records Retention

All base records prepared pursuant to the SMP shall be maintained for no less than seven years, and preferably for the entire life of the Program. The permitting database and annual reports shall be maintained for the life of the Program.

USER INSTRUCTIONS – AGRICULTURE/TIMBER/WILDLANDS BURNING

SECTION 4401. Regulation and Authority

All agricultural, timber, and wildlands burning conducted within the boundaries of the YIR is subject to the AQO. The AQO defers to this SMP for the setting out of the specific burning program guidelines. Persons or entities found in violation of this SMP are in violation of the AQO and subject to the penalties therein.

SECTION 4402. Field Registration

It is the responsibility of each landowner requesting to conduct burning activities to request, complete, and return the appropriate forms to the Smoke Management Office. Field registration is required for all wildland, timber, or agricultural lands for which one-time burning is planned; field registration is also required for brush pile burning where piles are greater than five feet in diameter. Registration fees will be assessed based upon the acreage to be burned. Field Registration is an application for an air quality burn permit. Adherence to the information submitted and conditions in an issued permit creates a rebuttable presumption that the landowner and operator(s) acted without negligence.

A sample Field Registration form can be found in Appendix B. Registration forms can be obtained by contacting:

Information Request - Field Burning Registration Smoke Management Program
PO Box 1027
Klamath, CA 95548

(707) 482-1350

It is important to note that registration does not constitute an authorization to burn. The Tribe's SMC issues burn authorizations, which are valid pursuant to a daily burn determination. A burn determination is made after weather assessments have been conducted for a given day.

SECTION 4403. Implied Consent

The application for and receipt of a burn authorization from the SMC implies landowner consent to on-site surveillance during burning activities, as enabled through the AQS.

SECTION 4404. Alternatives Analysis

Each application for field registration must be accompanied by a list of possible alternatives to burning, and reasons why those alternatives have been rejected in favor of burning on a property. It is the applicant's responsibility to demonstrate why alternatives are not reasonable. Permit requests may be denied for lack of comprehensive alternatives analysis.

SECTION 4405. Emissions Reduction

Each application for field registration must be accompanied by a listing of actions taken or planned to minimize emissions. Such actions may include bailing of coarse materials; fuels load reduction through thinning; chipping of woody debris; plans for spot or strip burning, etc. In the event that there are more applicants for burning than the SMC deems can safely burn at a given time, priority will be given to landowners who demonstrate active interest in emissions reduction.

SECTION 4406. Minimum Certification Required

All burns must be conducted by trained personnel with experience in prescribed fire and smoke management techniques. At a minimum, the applicant and/or burn boss in a field burning exercise must provide proof of the following:

1. Completion of a federal/state land manager course dedicated to smoke management and direct experience or attendance at an approved smoke management workshop and direct experience.
2. Certification as a Prescribed Burn Manager, through completion of a prescribed fire course and direct experience or completion of the Inter-Agency Basic Prescribed Fire course and direct experience.

A landowner may burn less than 10 acres of land without a prescribed burner on-site provided that a certified prescribed burner has prepared a burn plan for the site and the landowner follows those instructions.

SECTION 4407. Fees

For field burning, the cost per acre shall be three dollars (\$3.00). This fee must be paid with each permit issued.

SECTION 4408. Conditions on Burning

For the Tribe's SMP to operate efficiently, each person requesting to conduct burning should first obtain guidance regarding burn methods from the SMC. Weather conditions may limit the number of acres that can be burned with minimum smoke impacts. It may be necessary to limit some burning operations and recommend the burning of a select number of fields to minimize smoke impacts.

The SMC reserves the right to withhold all burn authorizations.

(o) Burning may commence

Authorization to burn for timber, agriculture, or wildland burning events may be issued by the SMC when all of the following conditions are met:



- (1) The field registration forms have been completed and filed with the Tribe's SMP.
- (2) The public has had opportunity to comment on the proposed burn, with property owners or occupiers within one quarter mile being personally noticed at least 24 hours before planned ignition;
- (3) Proper weather conditions exist to disperse smoke adequately.
- (4) Firefighting equipment is on site (at a minimum, a water tender and experienced operators).
- (5) The field has been prepared and identified by the SMC as ready to bum.
- (6) If smoke from the bum may impair visibility along a roadway, flags or signage is on hand to warn motorists of a prescribed burn in progress.
- (7) A burn permit has been issued to the responsible operator.
- (8) The bum's planned activities will not violate any provisions of the AQO.
- (9) Burning may be restricted to daylight hours, and conditioned in the issued air quality burn permit.

(p) During a Burn

During a burn, the land manager must do the following:

- (1) If smoke from the burn may impair visibility along a roadway, flags or signage must be placed to warn motorists of a prescribed burn in progress.
- (2) For projects over 20 acres in size, projects near smoke sensitive areas, or projects which may impact air quality for more than one day, visual

monitoring must be conducted as described in the application. Monitoring reports must be submitted to the SMC within four days of the bum's conclusion.

- (3) Only the amount of material that could reasonably be expected to burn within 24 hours may be ignited in any one day. Material to be burned must be ignited as rapidly as practicable.
- (4) Only organic materials may be burned; this SMP is subject to the limitations set by the AQO, found attached to this document.
- (5) If the SMC or another regulatory body finds that the permit holder is violating the AQO, violating air quality standards, or inundating smoke sensitive areas, the permit holder has no more than two hours to correct the situation.
- (6) In the event that air quality conditions change significantly during the course of a day, the SMC has the authority to rescind authorization to burn and the permit holder must immediately halt all ignitions and suspend new ignitions. At the time that notification is given to halt ignitions, the SMC will set timeframes for mop up to be initiated and completed and will additionally publicize actions to be taken to protect public health.
- (7) Operators are responsible for intermittent monitoring for three days after a burn to ensure that smoke impacts have been alleviated. The results of this monitoring will be submitted to the SMC no more than four days after the bum's conclusion.

SECTION 4409. Visual Monitoring

For projects less than 20 acres in size, visual monitoring must be conducted by the land manager at least four times daily during and immediately subsequent to the burn at equal intervals. Monitoring results should be documented and monitoring reports must be submitted to the SMC within four days of the bum's conclusion.

For projects more than 20 acres in size, projects near smoke sensitive areas, or projects which may impact air quality for more than one day, visual monitoring must be conducted by the land manager. A detailed visual monitoring plan should be included with the Field Registration Form. The Burn Plan should include the method and location of visual monitoring and the interval between dispersal monitoring observations. Monitoring results should be documented and monitoring reports must be submitted to the SMC within four days of the bum's conclusion.

USER INSTRUCTIONS – SEASONAL DOMESTIC BURNING

SECTION 4501. Regulation and Authority

All domestic burning conducted within the boundaries of the YIR is subject to the AQO. The AQO defers to this SMP for the setting out of the specific burning program guidelines. Persons or entities found in violation of this SMP are in violation of the AQO and subject to the penalties therein.

SECTION 4502. Registration

It is the responsibility of each landowner requesting to conduct burning activities to request, complete, and return the appropriate forms to the Smoke Management Office.

Seasonal Domestic Burn Permit: A Seasonal Domestic Burn Permit is required for all households prior to performing burns of household organic wastes, either in brush piles (less than five feet in diameter) or in burn barrels. When applying for a seasonal domestic burn permit, each household must be familiar with alternatives to burning of household organic wastes, as well as materials which are under no circumstances to be burned under a seasonal domestic burn permit. A sample Seasonal Domestic Burn Permit can be found in Appendix C.

Registration forms can be obtained by contacting:

Information Request - Seasonal Burn Permit Smoke Management Program
PO Box 1027
Klamath, CA 95548
(707) 482-1350

It is important to note that registration does not constitute an authorization to burn. The Tribe's SMC issues burn authorizations. A burn determination is made after weather assessments have been conducted.

SECTION 4503. Implied Consent

The application for and receipt of a burn authorization or permit from the SMC implies landowner consent to on-site surveillance during burning activities, as enabled through the AQO.

SECTION 4504. Minimum Certification Required

While no certification is required for a seasonal domestic burn permit, the Yurok Tribe will waive the permit fee upon confirmed attendance at a one-hour educational class on domestic burning.

SECTION 4505. Fees

For domestic burning, the cost per property per season shall be \$50.00. This cost may be waived upon confirmed attendance at a one-hour domestic burning educational class. This class will include material on safe burning practices as well as alternatives to domestic burning.

SECTION 4506. Restrictions on Domestic Burning

Seasonal authorization to burn for domestic burning events may be issued by the Coordinator when the permit forms have been completed and filed with the Tribe's SMP and the Coordinator has discussed with the applicant proper burning procedures. The domestic user may burn throughout the season only when all of the following conditions are met:

- (8) The SMC has not declared an non burn day.
- (9) It is an assigned burn day for the permit holder.
- (10) The SMC has confirmed that proper weather conditions exist to disperse smoke adequately.
- (11) Fire suppression equipment is on site and at hand (at a minimum, a pressurized water supply, a rake, and a shovel).
- (12) The area around the burn barrel or brush pile has been cleared of vegetation, to eliminate the potential for inadvertently spreading fire. Adequate clearing may consist of mowing, tilling, limbing, or raking. The Yurok Environmental or Fire Department may inspect control features to ensure they are sufficient.
- (13) Persons are available to attend to the bum at all times, from ignition to cold ash.
- (14) The burn will comply with all provisions of the AQO.

If, during the course of a bum, the SMC or another regulatory body finds that the permit holder is violating the AQO, violating air quality standards, or inundating smoke sensitive areas, the permit holder must immediately cease burning activities.

In the event that air quality conditions change significantly during the course of a day, the SMC has the authority to rescind authorization to burn. Once notice is received that burning authorization has been suspended, the permit holder must immediately halt all ignitions and suspend new ignitions.

USER INSTRUCTIONS – CULTURAL BURNING

SECTION 4601. Regulation and Authority

Cultural burning conducted within the boundaries of the YIR is subject to Chapter 21.05 YTC. Chapter 21.05 YTC defers to this SMP for the setting out of the specific burning program guidelines. Persons or entities found in violation of this SMP are in violation of Chapter 21.05 YTC and subject to the penalties therein.

SECTION 4602. Registration

- (q) It is the responsibility of each landowner requesting to conduct burning activities to request, complete, and return the appropriate forms to the ENVR Smoke Management Office. Field registration is an application for a burn permit.

- (r) Field registration is required for all cultural burning in areas greater than five feet in diameter and up to one acre per burn.
- (s) One registration is required per year, and may include multiple planned cultural burn areas. The field registration should indicate a burn timeframe (to cover a general desired burning window).
- (t) A sample field registration form can be found in YTC 21.10.550. Registration forms can be obtained by contacting:

[Information Request – Cultural Burning Registration](#)
[Smoke Management Program](#)
[P.O. Box 1027](#)
[Klamath, CA 95548](#)
[\(707\) 482-1350](#)

- (u) It is important to note that registration does not constitute an authorization to burn. The Tribe's SMC issues burn authorizations, which are valid pursuant to a daily burn determination. A burn determination is made after weather assessments have been conducted for a given day.

SECTION 4603. Implied Consent

The application for and receipt of a burn authorization or permit from the SMC implies landowner consent to on-site surveillance during burning activities, as enabled through the Air Quality Ordinance.

SECTION 4604. Cultural Fire Practitioner Requirement

- (v) All burns must be conducted by or in the presence of a cultural fire practitioner, as defined in Chapter 21.05 with experience in cultural fire and smoke management techniques, or cultural fire course and direct experience.
- (w) The Environmental Department may maintain a list of known cultural fire practitioners, for the convenience of landowners interested in working with a practitioner on their property, or tribal members interested in learning cultural fire practices. Inquiries may also be made to Cultural Committee for cultural fire practitioner recommendations.

SECTION 4605. Restrictions on Burning

- (x) Cultural air quality burn permits are required for intentional fires applied to land for cultural goals in areas over 3ft in diameter, and are limited to one-acre cumulative area per burn.
- (y) Pretreatment of burn site and immediately surrounding area is planned, and presented in Field Registration for approval, to reduce impacts to air quality.
- (z) Air Quality Burn Permit holder must alert SMC at least week prior to the desired

burn day(s) for each area registered. SMC may inspect the site within one week of the proposed burn date to verify site conditions and verify adequate control measures are in place, such as control lines, water and other suppression materials, and to ensure the burn's planned activities will not violate any provisions of Chapter 21.05 YTC.

- (aa) Cultural burn permits are subject to burn day restrictions based on weather conditions.
- (bb) If smoke from the burn may impair visibility along a roadway, flags or signage must be placed to warn motorists of a prescribed burn in progress.

APPLICATION, APPEALS

- (cc)

SECTION 4901. Application Via Field Registration

Yurok Tribe	<i>for office use only</i>
Application for Field Registration	Tracking Number: 03-FR-
2003	Date Received:
	Payment Received:
	Permit Approved:
	Permit Mailed:
	Comment Op/Cl:

Applicant Name:



Date:

Mailing Address:

Fields Applied For:

Field No. APN

Location (T/R/S)

Acres

Fees Due: \$:XX.00 per acre x acres:

IMPORTANT: Your application for Field Registration does NOT constitute permission to burn! You will receive a copy of your Permit through the mail within two weeks of receipt of your completed application and fees. Once you receive your Permit, you are expected to comply with the provisions of the Air Quality Ordinance and the Tribal Smoke Management Plan.

I agree to comply with the Tribal Air Quality Ordinance and Smoke Management Plan.

(applicant signature) (date)

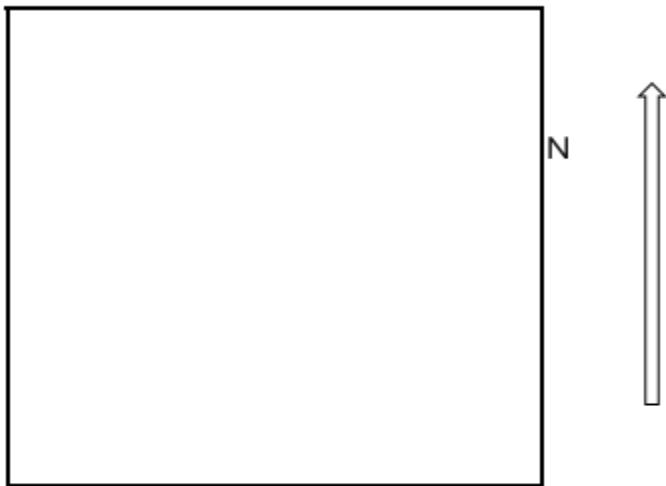
DETAILED INFORMATION SHEET

Copy as necessary – Fill out one sheet per section

Please locate and identify in the Section below: Fields to be burned, access roads, highways, houses, other sensitive areas or hazards, and include arrows to sensitive areas outside of this section. When more than one field is shown, label each field using the field number from page 1.

T: _____ R: _____ Section: _____

Field Number(s):_____



Primary Purpose of Burn: _____

Special Burn Considerations: _____

Alternatives Analysis:

Attach an evaluation of alternatives considered for burning activities.

Emissions Reduction:

Attach a description of emissions control measures which will be taken in this project.

Certification:

Attach proof of certification congruent with YTC 21.10.310 of the Smoke Management Plan.

Monitoring:

If required by the Smoke Management Plan, attach a detailed visual monitoring plan.

SECTION 4902. Penalties

Prohibited activities, the enforcement process, and penalties are given in the AQO, YTC 21.05.

SECTION 4903. Appeals

Decisions made by the SMC under this SMP may be appealed to the Tribal Court. Decisions which are appealable include award of a burn permit, denial of a burn permit, and notices of violation. The appeals process for violations is described in the AQC.