

5/23/1968

OREGON STATE SANITARY
AUTHORITY MEETING
MATERIALS



State of Oregon
Department of
Environmental
Quality

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State Sanitary Authority

1:30 p.m., May 23, 1968 in Globe Room

Sweet Brier Inn (formerly Ramada Inn), Tualatin

SUGGESTED TOPICS FOR DISCUSSION

1. Annual and biennial reports
2. Legislation
 - (a) Air Pollution Control
 - (1) Exempted sources 449.775
 - (2) Motor vehicles
 - (3) Field burning 476.380 - 478.960
 - (4) Submission and approval of plans 449.795
 - (5) Other
 - (b) Water Pollution Control
 - (1) Mandatory sewage works operators certification
 - (2) Performance bonds 449.400 (privately-owned public sewerage works)
 - (3) Delegation of authority for plan approval 449.245
 - (4) Other
3. Budget for 1969-71 biennium
4. Revision of priority point system for construction grants
5. Tax credit application for sulphite pulp mill chemical recovery system
6. Department of Interior non-degradation policy
7. Symposium on Biological Effects of Thermal Pollution, June 3-5
8. *Klamath River*

(Preliminary Proposal)

Budget and Staff Needs for 1969-1971 Biennium

Oregon State Sanitary Authority

Office of Director

Present staff: PHE 6 (Spies)
 PHE 5 (Weathersbee)
 Secy 4 (Treadwell)

Proposed additions: None

Note: An administrative assistant was requested in 1966 but
was not approved by the Governor.

Present budget: (General Fund) \$104,475

Funds needed for new positions: None

Air Quality Control

1) Administration

Present staff: PHE 4 (Patterson)
 Secy 3 (Saari)
 Secy 2 (Altig)

Proposed additions: Secy 2 (\$10,800)

Note: A Secy 2 was requested in 1966 for the Medford District
office but was not approved by the Legislature.

2) Field Operations

Present staff: PHE 2 (McKenzie)
 PHE 2 (Ayer)
 PHE 2 (Householder)*
 PHE 2 (Skirvin)*

Proposed additions: 2 Air Quality Specialists (2 x \$21,900)

Note: Two district sanitarians were requested in 1966 but
were not approved by the Governor.

3) Research & Development and Technical Assistance

Present Staff: PHE 2 (Vacant)
 PHE 2 (Vacant)*
 Meteorologist (Snyder) (federal)
 San 4 (Englund)
 1/4 St. Tr. (Sauvageau)

* New position approved by 1967 Legislature

7) Budget

Present:	(General Fund)	\$367,614
	(Federal Project)	<u>103,876</u>
	Total	\$471,490

Funds needed for new positions: \$143,300

Water Pollution Control

1) Administration

Present staff:

PHE	4	(Jensen)
Secy	3	(Blanchard)
Secy	3	(Householder) (federal)
Secy	2	(Petruzelli)
Secy	2	(Vacant)

Proposed additions: Secy 2 (\$10,800)
Draftsman 3 (\$16,800)

Note: Mr. Milliken (PHE 4) assists with administration but is assigned to the Public Health Engineering program budget of the State Board of Health. In 1966 a Draftsman 3, Informational Representative 4 and a PHE 2 were requested but not approved by the Governor.

2) Domestic Sewage Disposal Program

Present staff:

PHE	3	(Lynd)
PHE	1	(McHarness)
1/2 St. Tr.		(Smith)

Proposed additions: San 2 (\$21,900) (Permit compliance insp.)

Note: A San 2 was approved by the 1967 Legislature but deleted at the Special Session.

3) Sewage Works Plan Review Program

Present staff:

PHE	3	(Curran)
PHE	2	(Nunamaker)

Proposed additions: None

4) Industrial Wastes Program

Present staff:

PHE	3	(Cox)
PHE	2	(Sherwood)

Proposed additions: 2 PHE 2 (2 x \$26,200) (Permit compliance inspectors)

* New positions approved by 1967 Legislature

5) Waste Discharge Permit and Tax Credit Program

Present staff: PHE 3 (Sawyer) (federal) (new)
Secy 3 (Noble) (federal) (new)

Proposed addition: 1 PHE 2 (\$26,200)

Note: A supplemental request was submitted to the 1967 Legislature for 5 positions to staff this new program (1 engineer, 3 sanitarians and 1 secretary) but it was not approved. The 2 existing positions listed above were later established and financed with new federal funds that became available at the beginning of the present biennium. One new PHE 2 position had been approved by the 1967 Legislature but was deleted at the Special Session.

6) Water Quality Studies Program

Present staff: Water Quality Analyst (GDC) (Federal)
Aquatic Biologist 2 (McHugh)
Aquatic Biologist 2 (Sainsbury)*
San 2 (Gray)*

Proposed additions: None

7) Laboratory

Present staff: Chemist 3 (Hose) (federal)
Chemist 2 (Vacant)*
Chemist 2 (Vacant)*
San 2 (Kollias)*
1/4 St. Tr. (Petterson)
1/4 St. Tr. (Grewenow)

Proposed additions: San 2 (\$21,900)
2 Chemist 2 (2 x \$19,000)
1 Microbiologist 2 (\$19,000)
1 Aquatic Biologist 3 (\$25,300)
1 Secy 3 (\$11,820)
1/2 St. Tr. (\$7,500)

Note: Dr. Westgarth (PHE 4) directs the activities of the Division of S & E Laboratories and is assigned to that program budget of the Board of Health.

New positions approved by 1967 Legislature

8) District Offices

Present staff: PHE 3 (Baton) Medford
 PHE 2 (Sheetz) Medford
 Secy 2 (Atkins) Medford (federal) (new)
 PHE 3 (Ashbaker) Bend
 PHE 2 (Vacant) Eugene
 PHE 1 (Reiter) Portland
 PHE 1 (Schmidt) Portland
 Secy 2 (Pfeiffer) Portland (federal)

Proposed additions: 2 Secy 2 (2 x \$10,800) (for Bend & Pendleton)

Note: A San 3 and Secy 2 for Bend and a Secy 2 for Pendleton were requested in 1966 but were not approved by the Legislature. As previously noted a Secy 2 for Medford was requested in 1966 under AQC but was not approved.

9) Staff Summary

Present: 29 FT 3 PT 30 FTE
 Additional requested: 14 FT 1 PT 14½ FTE

(There were 13 positions in the 1966 request, including the 5 in the supplement request for the waste discharge permit program, that were either not approved or ultimately deleted.)

10) Budget

Present: (General Fund)	\$475,038
(Federal Grant)	183,545
Total	<u>\$658,583</u>
Funds needed for new positions:	\$273,220
Laboratory Capital Outlay (WQC) (\$85,200)	58,180
	<u>\$331,400</u>

Summary

1) Number of positions (full-time equivalent)

	Office of Director	AQC	WPC	Total
Budgeted for '65-'67 biennium	3	13½	13½	30½
Requested for '67-'69 but not approved (new)	1	7	13	21
Approved for '67-'69 (new)	0	5	13½	18½
New federally financed ('67-'69)	0	0	3	3
Budgeted for '67-'69 biennium	3	18½	30	51½
Additional requested '69-'71	0	7	14½	21½

* New positions approved by 1967 Legislature

2) Present Staff by Classification

- a) Administration: 2 Engineers
1 Secretary

(Note: Positions financed by other program budgets include
2 engineers and 1 attorney)

b) Air Quality Control:

- 8 Engineers
1 Air Quality Analyst
4 Chemists
1 Meteorologist
1 Sanitarian
3 Secretaries
2 Student Trainees (part-time)

Sub-total 18 FT 2 PT

c) Water Pollution Control:

- 14 Engineers
2 Sanitarians
2 Aquatic Biologist
3 Chemists
1 Water Quality Analyst
7 Secretaries
3 Student Trainees (part-time)

Sub-total 29 FT 3 PT

Note: There are 3 engineers and 1 secretary in the district
offices who are financed by another program budget but
who assist with AQC and WPC activities.)

3) Positions requested but not approved for 1967-1969 biennium

- 1 Administrative Assistant (Office of Director)
3 District Sanitarians (AQC)
1 PHE 3 (AQC) (deleted at Special Session)
1 PHE 2 (AQC)
1 Secretary 2 (AQC) (for Medford)
1 Sanitarian 2 (AQC) (deleted at Special Session)
1 Informational Representative 4 (WPC)
1 Draftsman 3 (WPC)
1 PHE 2 (WPC) (deleted at Special Session)
1 PHE 2 (WPC) (for interagency liaison)

- 1 Sanitarian 2 (WPC) (deleted at Special Session)
- 2 Secretary 2 (WPC) (for Bend and Pendleton)
- 1 Sanitarian 3 (WPC) (for Bend)
- 1 PHE 2 (WDP) (supplemental request)
- 3 Sanitarian 3 (WDP) (supplemental request)
- 1 Secretary 3 (WDP) (supplemental request)

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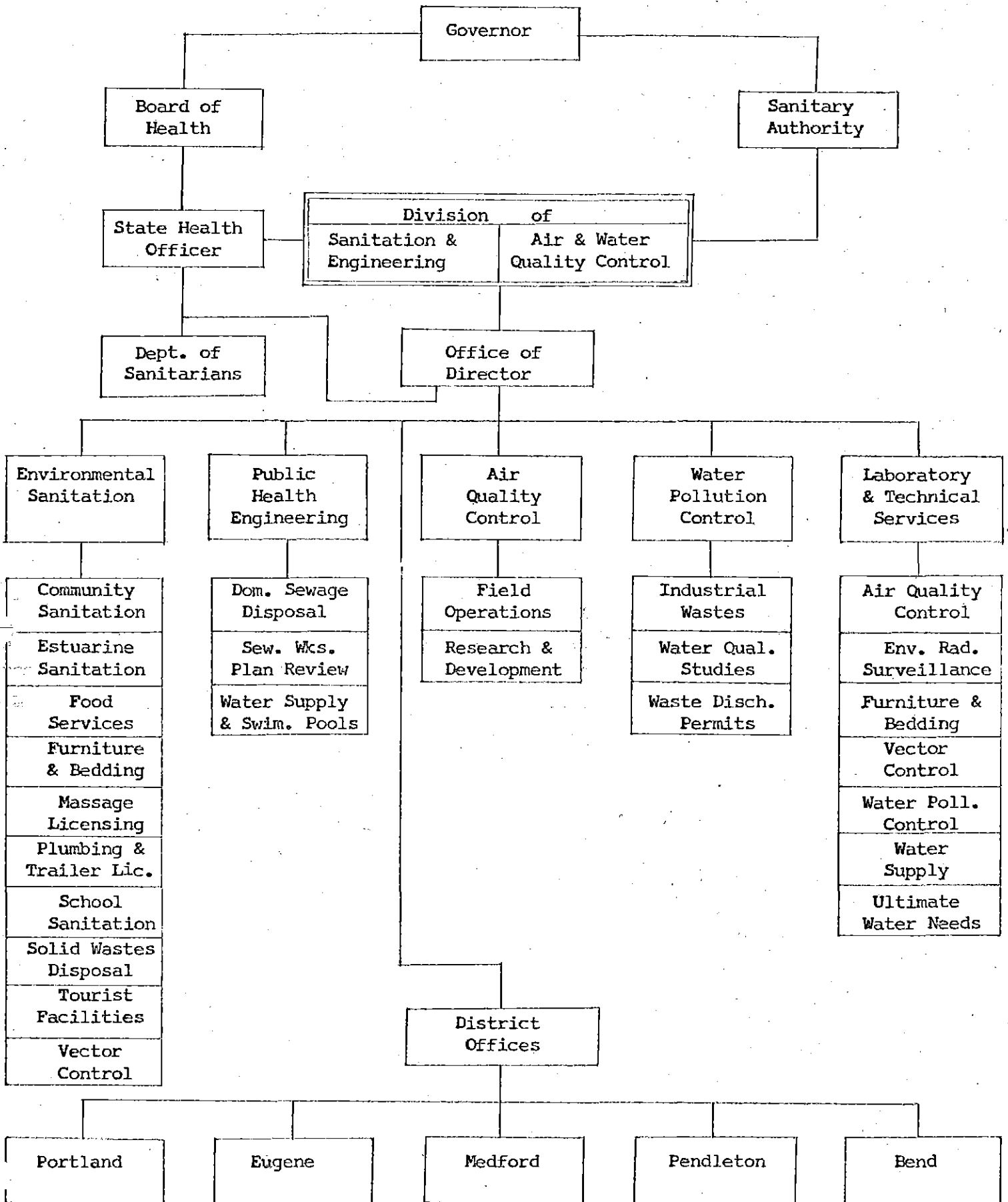
4) Budget

	<u>Office of Director</u>	<u>AQC</u>	<u>WPC</u>	<u>Total</u>
1965-1967 Expenditures	84,683	281,792	291,266	657,741
Requested for '67-'69 *	102,866	640,352	825,121	1,568,339
Present budget for '67-'69	104,475	471,490	658,583	1,234,548 **
Proposed increase for '69-'71	- 0 -	143,300	331,400	474,700

* Not including salary adjustments

** This amount will probably have to be reduced by some \$22,000 to keep within the funds actually available.

OREGON STATE BOARD OF HEALTH - STATE SANITARY AUTHORITY



1969-71 BUDGET PROJECTION

PERSONNEL

- (230) H. M. Patterson (AQC Admin.) Gen.
- (229) H. W. Merryman (District, Eugene) Gen.
- (226) Mabel C. Saari, Sec., Admin. Gen.
- (232) Hazel M. Altig, Sec., Admin. Gen.
- (384) B. Diane Ferguson, Sec., Lab. Gen.
- New Sec. 2, Admin., Gen.

Field Operations

- (233) H. W. McKenzie C.A., Gen.
- (379) Ron C. Householder, Gen.
- (381) Fredric A. Skirvin, Gen.
- (227) Clint A. Ayer, Gen.
- (263) Don R. Sauvageau, 1/4 Gen.
- New Air Quality Specialist

Research & Development

- (380) Vacant, Gen.
- (235) R. B. Snyder, Fed.
- (228) Vacant, Gen.
- New PHE III
- New Air Quality Specialist
- New Air Quality Specialist
- (231) Ken L. Englund, Gen.

Laboratory

- (265) R. B. Percy, Gen.
- (264) Richard A. Johnson, Gen.
- (234) Allan VanHoeter, Fed.
- (236) Dennis Duncan, Fed.
- (387) Peter B. Culter, Gen.
- (262) Douglas O. Ober, 1/2 Gen.
- New Chemist II
- New Chemist II

SUMMARY OF POSITIONS

		<u>Current</u>	<u>New</u>	<u>Total</u>	<u>Current Fed.</u>
	AQC Admin.	5	1	6	0
	Field Operations	4 1/4	1	5 1/4	0
	Research Development	4	3	7	1
	Laboratory	5 1/2	2	7 1/2	2
		<u>18 1/4</u>	<u>7</u>	<u>25 1/4</u>	
1965-67	13 1/4				
1967-69	18 1/4				
1969-71	25 1/4				

RESPONSIBILITY OF SUB-SECTIONS

AIR QUALITY CONTROL

Field Operations

Review P & S

Tax Exemption

Process Control Programs

(Surveillance & Control Activities
Major Headings Are:

Combustion Processes
Primary Metals & Metallurgical
Processes
Mineral Processing Industries
Pulp & Paper
Petroleum Industry & Organic
Solvents
Others

Research & Development

Criteria Development

Standard Development

Emission Measurement

Meteorological
(Transport of Contaminants)
(Visibility Studies)

Special Studies

Training

Emission Inventory

Air Quality Analysis & Laboratory

State-wide Air Monitoring
Continuous Air Monitoring Station

Analysis & Procedure Development

Equipment, Evaluation

Inventory & Repair

Microscopy

Data Processing

PROCESS CONTROL

Combustion Processes

Boilers & Heaters

Fuels

Equipment & Operating Practice

Power Plant Control

Incineration

Single Chamber of Wigwam Waste Burner

Multiple Chamber Incinerators

Motor Vehicles

Primary Metals & Metallurgical Processes

Aluminum

Electric Steel

Iron Cupola

Copper, Brass, Lead, etc.

Mineral Processing Industries

Asphaltic Concrete Plants

Concrete Batch

Glass, Ceramic, Insulation, etc.

Petroleum Industry & Organic Solvents

Storage

Solvent Distribution & Useage

Others

Open Burning

Paint & Varnish

Asphalt Manufacture

Rendering

Brake Debonding

Coffee

Feed & Grain Plants

Pulp & Paper

Kraft

Sulfite, etc.

IX WATER QUALITY STANDARDS

WHEREAS, the effective control of water pollution requires cooperation of federal and state authority within a framework of congressional and state legislative policies and enactments; and

WHEREAS, recent efforts of the Secretary of the Interior have been to obtain state adoption of water quality standards which go beyond the uses for which particular water bodies are intended, and beyond acceptable stream standards for those water bodies; and

WHEREAS, federal authority has so far failed to enunciate a timely, stable and reasonable set of policies within the existing statutory framework; and

WHEREAS, the confusion and friction resulting from the present course of affairs can end only in acrimonious litigation, delays in actual improvement in the quality of water throughout the country, and a serious deterioration of federal-state relations; and

WHEREAS, the imposition of federal review requirements and the imposition of a national use standard unrelated to present and intended water uses is improper and unauthorized and is likely to result in administrative delays and delays occasioned by the necessity for new legislation, and, therefore, will hinder the implementation of water quality programs already designed by the states and set back the schedule of such programs;

NOW, THEREFORE, BE IT RESOLVED by the Western Governors' Conference that the states be urged to stand together in adherence to and defense of water quality standards made pursuant to proper legal processes, and which take into account the uses and values of particular waters to serve the social and economic needs of local populations, as determined by appropriate state authorities, and to stand together in their rejection of improper and unauthorized federal intervention in states' water pollution control programs; and

BE IT FURTHER RESOLVED, that the federal authorities are requested to cooperate with the duly constituted states' water pollution control officials and with the states generally in rescinding or properly amending those federal requirements which have caused an unfortunate situation to develop.

Resolution adopted by Western Governors' Conference May 1968.

Office Memorandum • OREGON STATE BOARD OF HEALTH

To : KHS

Date: May 22, 1968

From : ERL

Subject: Proposed Legislation - Mandatory Sewage Works Operators Certification

The following information has been summarized concerning the voluntary sewage works operators certification program and proposed mandatory certification.

Voluntary Program

Placed in operation May 5, 1956

Conducted by:

Oregon State University
Oregon State Sanitary Authority
Pacific Northwest Pollution Control Association

Purpose:

To provide a system whereby men in the sewage works profession may be examined and rated by qualified persons, thereby establishing a standard of proficiency for those occupying the position of sewage treatment works operator.

Certification grades:

I through V depending on size and type of plant where employed. Group I requires highest qualifications.

Statistical summary:

<u>Year</u>	<u>No. of certificates issued</u>
1956	17
1957	9
1958	7
1959	28
1960	33
1961	35
1962	34
1963	45
1964	52
1965	42
1966	57
1967	69

First mandatory bill entered here.

Actual numbers of operators certified by grade level through 1967:

<u>Grade Level</u>	<u>Operators</u>
I	41
II	21
III	39
IV	50
V	40

Total 191

Distribution of certified operators:

The 191 certified operators are employed in about 35% of the plants, or 90 out of 255 plants.

About 150 of the plants and lagoons have a design population of 1000 or more. Forty-seven percent of these plants have at least one certified operator.

Mandatory Program

In 1958 a group of sewage works operators drafted a bill for mandatory certification that was presented to the 1959 state legislature. The bill died in committee.

In 1960 the bill was re-written and submitted to the 1961 legislature. The Sanitary Authority staff supported this effort but again it died in committee.

Essentially the same version was submitted to the 1963, 1965 and 1967 legislators by the sewage works operators. It was never voted out of committee. All of these were introduced in the House except 1965 where it was tried in the Senate.

Provisions of the bill:

- (1) Required a certified operator in all sewage plants with design population of 1000 or more.
- (2) Contained a grandfather clause for persons certified under the voluntary program.
- (3) Was to be administered by the Oregon State Sanitary Authority.
- (4) Provided for the collection and disbursement of fees.
- (5) Provided for an advisory board of seven members (3 from the League, 3 operators, and 1 from Oregon State University to act as Secretary).
- (6) Established penalties

Comments:

1. Voluntary certification has definitely resulted in improved sewage plant operation in those plants participating. With an accelerated sewage works construction program, competent operation is needed.

2. Sanitary Authority staff members believe that if the voluntary program is to be replaced by mandatory certification a shortened version possibly in the form of an enabling act should be sponsored by the Sanitary Authority.
3. Mandatory certification legislation has been enacted in sixteen states. See attached map.
4. Recent bulletins from the Department of the Interior indicate that an effective certification program may become a pre-requisite for participation in the construction grants program.
5. Most opposition to the operators bills has come from the League of Oregon Cities.
6. Among some operators there is a growing discontent with the present program and their failure to obtain mandatory certification.
7. To develop qualified operators, additional training programs are needed to supplement the annual three-day short school at Oregon State University.

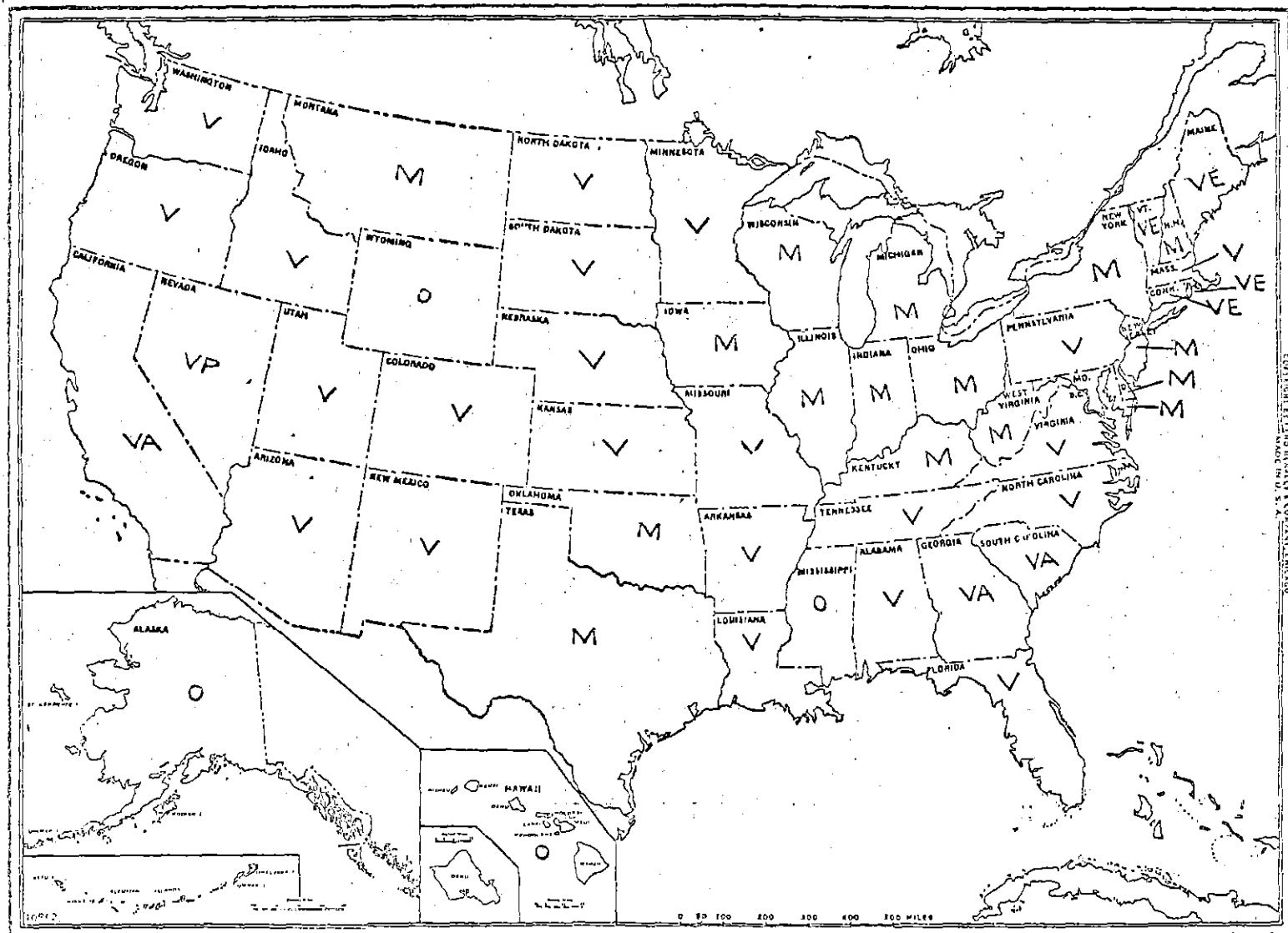


FIGURE 1.—State examining and certification programs for wastewater treatment plant operators. M = Mandatory; V = Voluntary, administered by state; VA = Voluntary, administered by states' WPCF Member Association; VE = Voluntary, administered by New England Water Pollution Control Association; VP = Voluntary, in preparation; O = No reported program.

Office Memorandum • OREGON STATE BOARD OF HEALTH

To : State Sanitary Authority

Date: May 22, 1968

From : H. E. Milliken

Subject: Performance Bonds

ORS 449.400 requires the filing of a performance bond with the Oregon State Sanitary Authority before the construction of a domestic sewerage system to assure construction according to approved plans and to have the system maintained and operated in accordance with the rules of the Oregon State Sanitary Authority when such a system is owned by a private individual or company.

We have in our files 15 bonds for such projects, although we have 43 privately owned sewage treatment plants. The others have been exempted because they were too small or were industrial or motels, etc.

Enforcement of this law has not been clearly understood over the years and a review of the files indicates this.

It is the feeling of the staff that the requiring of a bond should apply only to privately owned community sewerage systems which operate their own treatment plants.

It appears unnecessary to have such a law which applies to institutions, motels, and trailer courts. These facilities are licensed by other units of government and can be controlled if necessary in that way.

For the purpose of discussion it is recommended that we (1) [✓] propose amendments to this statute clarifying its application and making it apply to privately owned community systems, only or (2) if sufficient control is exercised by the use of the waste discharge permit law it might be possible to repeal this bond requirement entirely.

Proposed Changes in "Criteria for Determining
Priority of Eligible Projects for Construction Grants
Under PL 84-660 - for Discussion Only

	Points
I. A - Change to ¹⁰⁰ 25% assessed value basis	10
B - No change	10
C - Outstanding sewer bonds per capita (excluding Bancroft) (points same as I. B)	10
D - If applicant received grant of \$100,000 or more within the last five (5) years - deduct five (5) points	-5
II. A - Degree of treatment <u>required</u>	
(1) Secondary treatment (85% of BOD removal)	5
(2) Secondary treatment plus polishing or summer holding	8
(3) Tertiary treatment including nutrient reduction	10
B - No change	10
III. A - (3) Omit "sinking fund being accumulated"	13
B - No change	12
C - Project under construction or completed	5
D - Permit Conditions	
(1) failure to comply with permit schedule deduct five (5) points	-5
IV. Efficient Utilization of Funds	
A - Not in accordance with coordinated, officially adopted, area-wide plan if there is one. Deduct five (5) points	-5
B - Omit	
C - Omit	
Total possible points	
80	
Possible deductions	
15	

70

State of Oregon

CRITERIA FOR DETERMINING PRIORITY OF ELIGIBLE PROJECTS

FOR FEDERAL CONSTRUCTION GRANTS UNDER PL 84-660

In determining priority of eligible projects, the Oregon State Sanitary Authority will use the point system described below. No project will be considered eligible unless (a) it conforms with the state plan for control of water pollution, (b) its design conforms fully with the minimum requirements of the Authority, (c) the applicant gives adequate assurance that following the construction the sewage treatment works will be properly operated and maintained, and (d) the applicant is ready to start construction within the time required for encumbering the federal funds.

I. Points based on financial needs (20 points maximum)

A. Per capita assessed value (50% basis)

\$ 500-\$899	10	\$2500-\$2899	5
900-1299	9	2900- 3299	4
1300-1699	8	3300- 3699	3
1700-2099	7	3700- 4099	2
2100-2499	6	4100- and above.	1

B. Total project costs per capita

\$ 0-\$ 24	1	\$125-\$174	6
25- 49	2	175- 224	7
50- 74	3	225- 274	8
75- 99	4	275- 324	9
100- 124	5	325- and above	10

II. Points based on water pollution control needs (20 points maximum)

A. Degree of treatment required

(1) Primary only.	4
(2) Intermediate.	6
(3) Secondary	8
(4) More than 85% BOD removal	10

B. Pollution abatement needs

- (1) Abatement of existing water pollution which constitutes a hazard to the safety of a public water supply, shellfish growing area or waters used for irrigating garden crops. 10
- (2) Formal order entered by Sanitary Authority directing applicant to abate pollution. 9

(3)	Abatement of existing health hazard on land due to inadequate sewage collection or disposal . . .	8
(4)	Protection of recreation (swimming, boating). . .	7
(5)	Protection of animal, plant, fish and other aquatic life.	6
(6)	Sewage treatment needed for serving future or proposed residential and other developments . . .	5
(7)	Protection of agricultural and industrial waters.	4
(8)	Abatement of local nuisance conditions.	3

III. Points based on readiness to construct (25 points maximum)

A. Fiscal program

(1)	Bonds voted and sold or cash on hand.	13
(2)	Bonds voted but not sold.	10
(3)	Sinking fund being accumulated or bond election scheduled	2

B. Engineering plans

(1)	Final engineering plans and specifications completed	12
(2)	Final engineering plans being prepared and scheduled to be completed within 30 days.	8
(3)	Final engineering plans being prepared and scheduled to be completed within 90 days.	6
(4)	Preliminary engineering (only) completed.	2

IV. Efficient Utilization of Federal Funds (5 points maximum)

A.	In accordance with coordinated area-wide plan.	5
B.	In accordance with limited area-wide plan.	2
C.	In accordance with local plan.	1

PARTICIPATING COUNTIES:

BENTON
LINN
MARION
POLK
YAMHILL

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MAY 23 1968

Air Pollution

MID-WILLAMETTE VALLEY AIR POLLUTION AUTHORITY
ROOM 4, 255 CHURCH STREET N.E. - TELEPHONE 581-1715
SALEM, OREGON 97301

May 22, 1968

Mr. Harold M. Patterson
Chief, Air Quality Control
Oregon State Sanitary Authority
1400 S. W. Fifth Avenue
Portland, Oregon 97201

Dear Mr. Patterson:

Outlined below are some areas that legislative action would provide clarity to existing law, and further, establish a base for the equitable administration of the laws. The legislative action should provide for the people, at least in our region, the purity of the air that they feel they deserve. The following list should provide a step in that direction.

- A. The definition of air pollution should encompass the preventive aspects of control and not require that damage be done before action is taken. This definition should be changed to reflect this concept.
- B. The exemptions, besides recreational and fire hazard exceptions, should be removed to allow for the equitable aspect of control and to reflect the growing number of people's concept of what they expect in the way of control.
- C. Legislative action should provide for the Chief of the Air Quality and the directors of the regional authorities to make findings of fact with regard to violations of any regulation. This would allow for streamlining the administrative processes and allow the Authority to spend more time on priority and pressing matters.
- D. Provision should be made to allow the regional authorities to utilize hearings officers in the adoption of rules, standards and orders.
- E. Legislation should make provisions for the regional authorities to participate in the State of Oregon's procurement of supplies and equipment program. At the present time the regions are exempted because they are not a political subdivision.
- F. Any responsible legislation on the control of air pollution from the motor vehicle should be encouraged.
- G. Provisions should be made to exempt the regional authorities from the Local Budget Law.

The legislative actions discussed are of importance to all regions and the response on many of them are long overdue. We would implore you to seek

Mr. Harold M. Patterson

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May 22, 1968

whatever steps are open to you to make these needs known. The Mid-Willamette Valley Air Pollution Authority will be glad to lend its support to responsible programs for better air.

Sincerely yours,

MID-WILLAMETTE VALLEY
AIR POLLUTION AUTHORITY



Michael D. Roach
Michael D. Roach
Director

MDR/rlp

COLUMBIA-WILLAMETTE AIR POLLUTION AUTHORITY

104 S.W. FIFTH AVENUE

PORTLAND, OREGON 97204

PHONE 228-6141, EXT. 466

23 May 1968

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MAY 23 1968

BOARD OF DIRECTORS

M. James Gleason, Chairman
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City of Portland

Richard E. Hatchard
Program Director

Harold M. Patterson, Chief
Air Quality Control
Oregon State Sanitary Authority
1400 SW 5th Avenue
Portland, Oregon 97201

Air Pollution

Dear Pat:

You requested informal comments regarding desirable changes in the State Statutes on pollution of air that should be considered in connection with the development of a legislative program. As we have discussed in the past, I believe there are many changes that are warranted, and in my opinion the Oregon law is weak, certainly in comparison with the expectations of Oregon Citizens. Some of the changes that I believe are desirable are beyond the reasonable expectations of making changes by the regulatory agencies, which include the regional authorities as well as the Sanitary Authority. In other words, the citizens and their action groups, conservation organizations, etc., need to have the public policy of the state reflect what the majority of the Oregon residents want in terms of the protection of their air resources. The following specific suggestions are made with the improvement of air quality in mind that I believe the public in Oregon wants.

ORS 449.760 (3) The addition of the phrase, "or may tend to be" after "which are" and before "injurious" would modernize the definition and give proper emphasis to the preventive approaches and also relieve some of the difficulties with legal proof.

ORS 449.765 (1) (a) Recommend deleting the phrase, "least possible injury" and substituting the phrase "desirable air quality shall be achieved that will prevent and eliminate injury to..." Also, delete the qualification "and consistent with the economic and industrial well-being of the state."

Explanation: The injury based public policy statement is out of the dark ages, in my opinion. The objective of the regulatory agencies should be, in 1968 and the future, to create desirable air quality for people. The concept that we must suffer some injury is at least a generation old and it smacks of more restraint than is included in the phrase "economic feasibility." Since the economic feasibility is well ingrained in all air pollution prevention and control law, I think that is enough protection, and we ought to encourage the legislators to relieve the policy statement by deleting the "least possible injury" phrase.

H. M. Patterson

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ORS 449.765 (2) The phrase "a maximum of" is indeterminate with reference to cooperation. I think the statement that "objectives shall be sought to be accomplished by cooperation and conciliation among all parties concerned" adequately covers the situation. I believe that most of the air pollution control will be done in this area, and I think it is now unwise to charge the regulatory agencies to maintain a maximum of cooperation and infer this is cooperation with the polluting part of the community.

ORS 449.775 I recommend that the exemptions in items 1, 2, 4 and 5 be deleted. Item 5 could be rewritten to exempt the Sanitary Authority from any legal obligation to regulate air pollution from dwellings of four families or less. It was the original intent of the Oregon Legislature, when the exemption was included, that they were exempting the State Sanitary Authority. The subsequent legal interpretation that it exempts all community regulatory programs, was not the intent of the legislature.

Explanation: There are important sources of air pollution that arise from agricultural operations in Oregon. These matters should be placed under the study, consideration and determination of the Sanitary Authority. The legislators should recognize that agriculture has nothing to fear from harsh action by the Authority. They have a great deal to fear from harsh action by urban citizenry who are getting informed about the unfair and disproportionate exemption afforded agriculture during the years 1951 to 1968.

The land clearing operations or land grading, should also be subject to regulatory restrictions. The factors involved with regulation automatically require that special problems be considered, and there are always variance administrative practices available if the person being regulated feels that the agency is not responding fairly.

ORS 449.795 The Sanitary Authority has the power to ask for plans, but the statute does not seem to give the Authority any legal power to prevent pollution, if in their opinion, pollution will be caused if an expansion or new construction continues in accordance with the proposed plans. In other words, the statute permits a study of the proposal, but the regulatory agency can do nothing about it if it fails through cooperation and conciliation to have the proposed air cleaning plans improved to provide an adequate degree of control. I believe the Sanitary Authority and the regional authorities should have the power to protect the public and the quality of the air in accordance with the prevailing regulatory measures, and if the person proposing to construct or expand fails to gain their approval, he should then be faced with more than a misdemeanor penalty. Personally, I think he should be prohibited from proceeding. Whether this takes the form of an injunctive action or another legal remedy, I believe that the time is passed when a source of air pollution should be added to the community with the full knowledge that it is going to cause a problem and injury to the people and property in that local pollution zone.

449.800 (7) The provision for entry into properties for purpose of investigating actual or suspected sources of air pollution should be done during operating hours, and four hours notice when requested should be deleted. This has not been used in our regulatory area, in fact, I can't recall an instance when our people have been denied entrance except where we were involved in litigation at Fry Roofing Company, and the Plant Manager, the only one who can conduct people through their plant, was not present.

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ORS 449.800 Rules and Regulations Recommend addition of the power of the Sanitary Authority to adopt rules and regulations concerning source emissions. In my opinion, you already have that power, but some attorneys feel that it should be clearly stated, apparently in order to get around the delegation of powers question between the Legislature and the Sanitary Authority.

449.820 (2) The regional statutes need some clarification. For instance in 449.890 it seems to say that all hearings shall be conducted by the Board of Directors. In the case of adoption of rules this is certainly in order; but in the enforcement of air pollution requirements, this provision prevents the Columbia-Willamette Air Pollution Authority from effectively performing its duties. We have in our rules placed the Program Director in a position to seek compliance with air quality standards, etc., but if he does not obtain compliance, the Program Director may make findings of fact, issue notices of violation, send confirmation letters, etc. I believe it would be preferable to amend the statutes and make it clear that the governing bodies of the region can appoint hearing officers to hear contested cases, requests for variances, or appeals from the Program Director's decisions. Then after full review of the transcript, the Authority make its decision; or in the alternative, make it clear in the State Statutes that the Board of Directors can, through the adoption of appropriate rules, empower their Program Director to carry on this function.

Explanation: With elected officials composing the governing body, there's just a practical limit to the amount of time they can be expected to devote to the problems of administering the region. While in the broad policy formulation, within the context of the State's air pollution laws, adoption of budgets and the adoption of rules and regulations, I think its an excellent Board, but they are just not able to spend enough time to hear contested matters.

449.990 The penalties outlined in (18) and (19) ought to be more than misdemeanor penalties. A violation of the Sanitary Authority's order or the violation of a regional order, should be grounds for a fine or penalty that would have some relationship to the amount of damage that has been caused or could be caused from the violation of such order. Several of the states are doing this such as New Jersey, with penalties up to \$25,000.

These are my informal comments. I have not had the opportunity for Emory to review them. I will be glad to provide more polished recommendations, but I wanted to get these to you in time for consideration at the Sanitary Authority meeting on 24 May.

Sincerely yours,



R. E. Hatchard

REH:jl