

6/29/1979

OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS



State of Oregon
Department of
Environmental
Quality

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OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

June 29, 1979

Portland City Council Chambers
City Hall
1220 Southwest Fifth Avenue
Portland, Oregon

A G E N D A

9:30 a.m. CONSENT ITEMS

Items on the consent agenda are considered routine and generally will be acted on without public discussion. If a particular item is of specific interest to a Commission member, or sufficient public interest for public comment is indicated, the Chairman may hold any item over for discussion.

~~A.~~ Minutes of the May 25, 1979, EQC Meeting

~~B.~~ Monthly Activity Report for May, 1979

~~C.~~ Tax Credit Applications

~~D.~~ Request for authorization to hold public hearings on the question of amending Administrative Rules governing Subsurface and Alternative Sewage Disposal; Subsurface Fees to be charged by Marion and Deschutes counties (OAR 340-72-010)

OSBORNE

~~E.~~ Request for authorization to hold public hearings on the question of amending Administrative Rules governing fees to be charged for Subsurface Sewage Disposal Permits, Site Evaluations and Services, in anticipation of the passage of House Bill 2111 (OAR 340-72-005 to 72-020 and 340-75-040)

OSBORNE

PUBLIC FORUM

9:45 a.m.

~~F.~~ Opportunity for any citizen to give a brief oral or written presentation on any environmental topic of concern. If appropriate, the Department will respond to issues in writing or at a subsequent meeting. The Commission reserves the right to discontinue this forum after a reasonable time if an unduly large number of speakers wish to appear.

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ACTION ITEMS

The Commission will hear testimony on these items at the time designated, but may reserve action until the Work Session later in the meeting.

G. Rule Adoptions

~~1.~~ Motor Vehicle Emission Testing Rules--Proposed adoption of amendments to motor vehicle emission testing rules including the addition of standards for light- and heavy-duty 1979 model year motor vehicles and the inclusion of clarification of procedures for the tampering portion of the inspection test (OAR 340-24-300 through 24-350) SUMICH

~~2.~~ Air Contaminant Discharge Permit Rules--Proposed adoption of amendment to air contaminant discharge permit fee schedule OAR 340-20-155, Table A, and amendment of OAR 340-20-175 to allow exemption from Notice of Construction requirements when required information is submitted with permit application for new or modified sources WOODS

~~3.~~ Open Burning Rules--Proposed adoption of amendments to rules for open burning (OAR 340-23-025 through 23-050) BRANNOCK

~~4.~~ Contested Case Procedure Rules--Proposed adoption of amendments to rules governing contested case and civil penalty assessment procedures (OAR 340-11-005(6), 11-116, 11-132 and 12-040) HASKINS

10:30 a.m.

H. Variance Requests

~~1.~~ Request for an Extension of Variances from Rules Prohibiting Open Burning Dumps, OAR 340-61-040(2)(c), for Lake County BROWN

~~2.~~ Request for an Extension of Variances from Rules Prohibiting Open Burning Dumps, OAR 340-61-040(2)(c), for the cities of Myrtle Point and Powers REITER

~~3.~~ Request for an Extension of Variances from Rules Prohibiting Open Burning Dumps, OAR 340-61-040(2)(c), for Disposal Sites in Lincoln County GILBERT

~~4.~~ Request for variance from the volatile organic compounds rule OAR 340-22-110 for Clarence Stark

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11:30 a.m. ~~I.~~ DEQ v. Mr. and Mrs. E. W. Mignot--Motion to Dismiss
Request for Commission Review

~~J.~~ Field Burning Research and Development Budget for
Fiscal Year 1980

FREEBURN

~~K.~~ Ozone Strategy Development Alternatives

KOWALCZYK

~~L.~~ Rule Adoption - Proposed adoption of Temporary Rules
Regulating Open Field Burning, OAR Chapter 340,
Section 26-005 and Section 26-015

FREEBURN

WORK SESSION

The Commission reserves this time if needed to further
consider proposed action on any item on the agenda.

Because of the uncertain time span involved, the Commission reserves the right
to deal with any item at any time in the meeting except Items F, H, and I.
Anyone wishing to be heard on an agenda item that doesn't have a designated
time on the agenda should be at the meeting when it commences to be certain
they don't miss the agenda item.

The Commission will breakfast (7:30 a.m.) in Conference Room A off the Standard
Plaza Building Cafeteria, 1100 Southwest Sixth Avenue; and lunch in Room 511,
DEQ Headquarters, 522 Southwest Fifth Avenue, Portland.

MINUTES OF THE ONE HUNDRED TENTH MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

June 29, 1979

On Friday, June 29, 1979, the one hundred tenth meeting of the Oregon Environmental Quality Commission convened in the Portland City Council Chambers, 1220 Southwest Fifth Avenue, Portland, Oregon.

Present were all Commission members: Mr. Joe B. Richards, Chairman; Dr. Grace S. Phinney, Vice-Chairman; Mrs. Jacklyn L. Hallock; Mr. Ronald M. Somers; and Mr. Albert H. Densmore. It is noted that this is Dr. Phinney's last meeting. Her term as Commission member expires June 30, 1979. Present on behalf of the Department were its Director, William H. Young, and several members of the Department staff.

Staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Director's Office of the Department of Environmental Quality, 522 Southwest Fifth Avenue, Portland, Oregon.

BREAKFAST MEETING

The Environmental Quality Commission met informally for breakfast in Conference Room A off the Standard Plaza Building Cafeteria, 1100 Southwest Sixth Avenue in Portland, and discussed the following items without taking any action.

1. Update on water quality construction grants priority list process.
2. Status of Evans Products Company permit, Corvallis.
3. Airport noise rulemaking process.
4. Status of 1979-81 Department budget request.
5. Lake County request for an open burning variance.
6. Ozone standard.
7. Status of SB 543 exempting agriculture and forestry from noise regulations.
8. Letters from City of Eugene regarding law suits on field burning.

FORMAL MEETING

Consent Agenda

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the following items be approved:

AGENDA ITEM A - MINUTES OF THE May 25, 1979 EOC MEETING

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR MAY 1979

AGENDA ITEM C - TAX CREDIT APPLICATIONS

AGENDA ITEM E - REQUEST FOR AUTHORIZATION TO HOLD PUBLIC HEARINGS ON THE QUESTION OF AMENDING ADMINISTRATIVE RULES GOVERNING FEES TO BE CHARGED FOR SUBSURFACE SEWAGE DISPOSAL PERMITS, SITE EVALUATIONS AND SERVICES, IN ANTICIPATION OF THE PASSAGE OF HOUSE BILL 2111 (OAR 340-72-005 to 72-020 AND 340-75-040

House Bill 2111 amends statutes that establish fees in the Subsurface Sewage Disposal Program. In addition, this Bill contains provisions which will eliminate the need for the Commission to adopt rules establishing contract county fees; provides for fee refunds under certain conditions; and exempts certain persons from fee requirements for subsurface variances, among other things.

This agenda item provides for adoption of temporary rules so that the new fee schedules and other provisions of HB 2111 may be implemented immediately. In addition, it requests authorization for public hearings on those proposed rules to move them to permanent rulemaking.

At the present time the Bill has passed both the House and Senate and was passed on for signature of the Governor.

Summation

1. ORS 454.625 requires the Commission to adopt such rules as it considers necessary for the purpose of carrying out ORS 454.605 to 454.745.
2. House Bill 2111 contains provisions that require adoption of new rules to deal with subsurface fees schedules.
3. The Department's budget for the next biennium is predicated on the maximum fees provided for in HB 2111.

Director's Recommendation

Based upon the summation, it is recommended that the Commission authorize public hearings to take testimony on the question of amending OAR 340-72-005 to 72-020 and OAR 340-75-040 fees to be charged for subsurface variances, permits, site evaluations and other subsurface program services.

Mr. Young presented an addendum to the staff report explaining that since the preparation of the original staff report, HB 2111 had been amended to include an "emergency clause" to become effective upon the Governor's signature or July 1, 1979. If the Department were to go through regular rulemaking processes, several months revenue would be lost to the Department and contract counties.

Amended Director's Recommendation

Failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned for the following reasons:

1. The Department's budget is predicated on the fees contained in HB 2111 becoming effective July 1, 1979.
2. Inability of the Department and some contract counties to charge the new, higher fees will result in lost revenue necessary for efficient program operation.

Based on the above findings, it is recommended that the Commission adopt the proposed amendments to OAR 340-72-005 to 72-020 and 340-75-040 as set forth in Attachment A of the staff report, as temporary rules of the Department to become effective July 1, 1979 or upon the date of the Governor's signing of HB 2111, whichever is later.

Mr. Young clarified that if the Governor were to veto the bill, these temporary rules will not go into effect. He also requested that hearings for permanent rulemaking be authorized.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the amended Director's Recommendation be approved.

AGENDA ITEM D - REQUEST FOR AUTHORIZATION TO HOLD PUBLIC HEARINGS ON THE QUESTION OF AMENDING ADMINISTRATIVE RULES GOVERNING SUBSURFACE AND ALTERNATIVE SEWAGE DISPOSAL: SUBSURFACE FEES TO BE CHARGED BY MARION AND DESCHUTES COUNTIES (OAR 340-72-010)

Director Young advised the Commission that HB 2111 would allow the counties to establish fees so this request would not be needed. Therefore this agenda item is withdrawn.

AGENDA ITEM H(2) - REQUEST FOR AN EXTENSION OF VARIANCES FROM RULES PROHIBITING OPEN BURNING DUMPS, FOR THE CITIES OF MYRTLE POINT AND POWERS (OAR 340-61-040(2)(c))

The Cities of Myrtle Point and Powers are requesting an extension of variances from rules prohibiting open burning dumps. Previous variances were granted with the understanding that these sites would close when a regional site at Bandon became available. Now that the Bandon site is available, the cities contend that the long haul would be an unreasonable burden.

Summation

1. Myrtle Point and Powers are currently operating open burning dumps under EQC variances granted February 24, 1978. The variances were granted to allow the cities and Coos County time to expand the processing capacity at Bandon and to establish franchising ordinances. Both of these tasks have been completed.
2. Coos County has adopted a Solid Waste Management Plan which identifies Bandon as the disposal site for wastes from Myrtle Point and Powers. The cities verbally agreed to this proposal prior to adoption of the plan. Sufficient capacity now exists for the County to receive wastes from these cities. At least one franchised hauler has expressed interest in collecting garbage from both cities.
3. The Bandon disposal site is the only one currently in operation in Coos County that can be operated in an environmentally acceptable manner.
4. Neither dump can be upgraded to a sanitary landfill. Current deficiencies include localized air pollution, rat harborage, minor leachate discharge, insects, vectors and safety hazards.
5. Other alternatives, such as a transfer station or a new landfill would be more expensive than hauling to Bandon.
6. The City of Powers has requested an indefinite extension of their variance, citing minimal pollution problems, economic hardship (rates will probably go up at least \$7.50/month in a city populated by many retired people), and the fuel shortage.
7. The City of Myrtle Point has requested an indefinite extension of its variance, citing the minimal pollution problems and cost (rates will probably go to \$5.50-\$6.50/month).
8. Coos County supports the Powers variance request, but would only support a limited extension to Myrtle Point's variance until the new county site can be established.
9. In the Department's opinion, the variance for Powers should be granted as the long distance from the nearest acceptable landfill and the large number of retired residents on low, fixed incomes make closing the Powers dump burdensome and impractical.
10. Operation of the Powers dump can be improved by better rat, fire and litter control. This will eliminate many of the environmental problems discussed at the May 30, 1979 public meeting in Powers.

11. In the Department's opinion, Myrtle Point's request only minimally meets the statutory requirement of ORS 459.225. Therefore, only a temporary variance should be issued to allow the County time to establish the new site and to allow the local hauler time to purchase the necessary truck. Since the distance to the new Beaver Hill site is only 18 miles, and the likely fee increase is comparable to other fees in Oregon, a longer variance cannot be granted on the bases that closing the Myrtle Point dump is burdensome or impractical.

Director's Recommendation

Based on the findings in the Summation, it is recommended that:

Powers

1. The City of Powers be granted an extension of its variance from OAR 340-61-040(2)(c) until June 30, 1984. Said variance to be subject to earlier review by the Commission if in the opinion of the Department there has been a substantial change in circumstances prior to that date.
2. The City of Powers be required to submit, by August 1, 1979, a proposed plan for DEQ review and approval that provides for improving access control, rodent and insect control, litter control and fire protection by September 30, 1979.

Myrtle Point

The City of Myrtle Point be granted an extension of its variance from OAR 340-61-040(2)(c) until June 30, 1980.

Mr. Richard Reiter of the Department's Southwest Region Office, said the Department held a public informational meeting on this matter and the testimony was almost unanimously against closure of these landfills for a variety of reasons, mainly concern over increased cost. He said the local citizens felt that the rules were somewhat arbitrary for localities of their size.

Mr. Ken Cerotsky, City Administrator for Myrtle Point, thanked the Department for holding the public meeting in Myrtle Point and giving the citizens a chance to comment. He appeared in opposition to the Director's recommendation stating that a nine-month variance was not enough and asking that the time be lengthened.

Mr. James McCulloch, Mayor of Powers, testified that most of the residents in their area were low income and unable to afford the cause of hauling refuse to Bandon. He said they were concerned that the result of this would be the dumping of garbage in unauthorized areas. He asked that a variance be granted for at least five years to be able to develop a solution to this problem.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Director's Recommendation be approved.

PUBLIC FORUM

Mr. Gordon Priday, Bend, appeared regarding the Bend sewage disposal problem. He was concerned about the disposal well method of sewage disposal and asked that no permits be granted for disposal wells in Bend. Mr. Priday's written statement is made a part of the Commission's record.

Mr. Paul C. Ramsay, Bend, was concerned about the quality of the water in the Bend area. He was concerned about the effluent escaping from the disposal well and affecting the quality of water for many miles around. Mr. Ramsey said this proposal was not acceptable even on an interim basis.

Director Young said the staff would prepare a response to Mr. Priday and Mr. Ramsay and request it at the next meeting.

AGENDA ITEM K - OZONE STRATEGY DEVELOPMENT ALTERNATIVES

At its June 8 special meeting, the Commission directed the staff to prepare a review of the problems and alternatives available for plant to attain the Federal and State ozone standards. This agenda item presented the review and recommendations.

Summation

1. The EQC requested the Department to define the problems and alternatives in meeting the new state primary standard of .08 ppm ozone, in light of efforts and requirements to meet the federal standard of .12 ppm.
2. Projected ozone levels indicate that:
 - a. The Portland area will have difficulty meeting the .12 federal standard by 1987 even with an annual I/M program and will have great difficulty meeting the .08 state standard in the foreseeable future unless some drastic measures like reducing motor vehicle travel by over 50 percent are implemented.
 - b. The Salem and Medford areas can meet the .12 federal standard by 1982 with present programs but would need an I/M program and some other control measures to meet the .08 standard within the next ten years.
 - c. The Eugene area meets the .12 federal standard and could meet the .08 state standard by 1987 with present control programs.
3. An annual I/M program appears to be by far the most effective program for making immediate further progress towards obtaining the .08 state standard in all nonattainment areas.
4. EPA has indicated that as long as the federal requirements regarding a .12 ozone strategy are met, the state is free to establish its own time schedule for meeting a more stringent state standard. If the state .08 standard or any part of the state strategy is made part of the SIP, however, those included items would be subject to federal enforcement.

5. If an .12 ozone SIP revision is not submitted to EPA by July 1, 1979, the state would be subject to monetary sanctions, if EPA rules that a good faith effort has not been made to meet this date.
6. Local lead agencies for transportation planning unanimously favor immediate submittal of the prepared .12 ozone SIP revisions to avoid possible federal monetary sanctions.
7. If the state ozone standard remains at .08, lead agencies unanimously favor a staged development of a strategy with a reasonable timeframe and later for plan submittal and standards attainment. They are all concerned, though, that funding will not be available for such an effort as EPA has indicated that it would not fund programs to meet state standards.
8. Assuming immediate submittal of the .12 SIP revisions to EPA, the major alternatives for developing a .08 state ozone attainment strategy are:
 - a. Develop a .08 strategy by July 1982 with attainment by December 21, 1987.
 - b. Develop a .08 strategy and attain the .08 standard a set period of time (3-5 years) after the .12 plan schedule.
 - c. Have the Department report back to the EQC as soon as practicable but not later than 1985 with recommendations for specific time schedules, funding the legislation that may be needed to effectively plan and implement the .08 standards in all nonattainment areas of the state.
9. Assuming continued holdup from submitting the .12 ozone SIP revision to EPA, another alternative is to develop one strategy to meet both state and federal standards as soon as possible but within a timeframe specified by the EQC.
10. Growth in the time period prior to developing an acceptable .08 strategy could irreversibly affect a .08 ozone nonattainment condition. Alternatives to addressing this problem include prohibiting growth or extending the EPA-type offset program for 50 tons/year VOC sources until an acceptable plan is developed.

Director's Recommendation

Based on the Summation, it is recommended that the Commission:

1. Adopt the .12 ozone SIP revision submitted at the June 8, 1979 meeting and direct the Department to immediately forward them to EPA.

2. Select a program to meet the .08 state ozone standard in consideration of the alternatives presented in the summation.
3. Advise the Department on whether it should proceed to develop interim growth management strategy with respect to .08 ozone nonattainment areas and whether this should be a prohibition or offset or other type scheme.
4. Determine whether immediate additional further progress should be made towards attainment of the state ozone standard by requiring implementation as soon as practical of all reasonable control measures such as RACT for VOC sources in the Eugene area and I/M programs in all areas not attaining the .08 state standard.
5. Advise the Department as to whether the state ozone standard and control strategy should be a part of the SIP filed with EPA.
6. Advise the Department whether and where the Department or local jurisdiction should seek funding for the strategy planning process.
7. Authorize the Department to conduct a public hearing to incorporate planning and attainment dates in the State Ozone Standard Rule if such dates are chosen by the EQC.

Mr. Scotty McArthur, Vice President of 3M Micrographics Division, shared the Commission's concern that there wasn't as much information on the health effects of ozone as everyone would like. However, he did not feel that at this time the available information justified an ozone standard lower than .12 ppm. He urged the Commission to adopt the .12 ppm ozone standard and to consider setting a goal of reaching a lower figure such as .08 ppm sometime after 1987. Mr. McArthur's written testimony is made a part of the Commission's record on this matter.

Mr. Richard L. Knowles, Mid-Willamette Valley Council of Governments, recommended that the .12 ppm standard be adopted as part of the SIP at this time and further consideration be given to the .08 ppm standard. He said they would require several months to do the planning necessary for the .08 standard. Mr. Knowles presented written materials which are made a part of the Commission's record on this matter.

Mr. Ralph Johnston, Lane Regional Air Pollution Authority (LRAPA), said ozone was not as serious a problem in The Eugene/Springfield area as it appeared to be in other areas of the State. He urged the Commission to reconsider its position with regard to the federal ozone standard of .12 ppm. LRAPA's written testimony is made a part of the Commission's record on this matter.

Mr. Jan Sokol, Oregon Student Public Interest Research Group (OSPIRG), said it appeared that the major problem area in meeting the .08 standard was the Portland Metropolitan Area. He said OSPIRG favored the submittal of a .12 ozone standard to EPA immediately in order to avoid the sanctions. He also said OSPIRG favored the submittal of .08 as a primary standard with strategy development over a reasonable time-frame.

Mr. Terry Waldeal, Metropolitan Service District, commended the DEQ staff for the report presented to the Commission on this matter. However, they thought it was weak in overemphasizing the need for attaining the .08 standard. He argued that the .08 standard was only realistic if the timetable for attaining it recognized that air quality in the region is, on the average, still very good.

It was MSD's position, Mr. Waldeal said, that by implementing measures to meet a .12 standard within the next two to three years, this area would see substantial air quality improvements and the first priority should be attaining the attainable.

Mr. Waldeal recommended that the Commission adopt alternative number 2 in the staff report with the understanding that the .12 SIP revision before the Commission be submitted to EPA immediately and that the planning process be accelerated to the extent that new resources and information become available.

It was MOVED by Commissioner Densmore, seconded by Commissioner Hallock and carried with Commissioner Somers desenting that the .12 ppm standard be attained by December 31, 1987, .08 ppm by December 31, 1992, and that control strategies to meet the .08 ppm standard be developed by January 1, 1985.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried with Commissioner Hallock desenting that until such time as the hearing process is completed, the Director judge permit applicants against the interim standard strategy.

AGENDA ITEM H(1) - REQUEST FOR AN EXTENSION OF VARIANCES FROM RULES PROHIBITING OPEN BURNING DUMPS FOR LAKE COUNTY (OAR 340-61-040(2)(c))

Lake County and the City of Paisley are requesting extensions of variances from rules prohibiting open burning dumps. They contend that strict compliance with the rules is unreasonable, since their disposal sites are small, isolated facilities with only minimal environmental impact. They also contend that the costs of operating without open burning would be excessive.

Summation

1. The City of Paisley and Lake County routinely open burn garbage at rural disposal sites in Lake County.
2. The Environmental Quality Commission, on April 27, 1979, granted a variance to OAR 340-61-040(2)(c) to allow open burning of garbage. The variance expires July 1, 1979.

3. Department staff has contacted Lake County and the City of Paisley to request information on support of a continued variance.
4. Lake County and the City of Paisley have requested a meeting with the Environmental Quality Commission to present their position and have been notified of the June 29, 1979 meeting.
5. Adequate evidence to support an extended variance has not been received by the Department.
6. Strict compliance at this time would result in probable closure of the disposal sites with no alternative facility or method of solid waste disposal available.

Director's Recommendation

Based upon the findings in the summation, it is recommended that the Environmental Quality Commission not grant an extension of the variance until such time as adequate justification for granting of a variance is received.

Based upon some new information presented to the Commission at its breakfast meeting, Director Young presented the following amended Director's recommendation.

Amended Director's Recommendation

Based on the summary and recent contacts with Lake County, it is the Director's recommendation that:

An extension of the variance to rules prohibiting open burning dumps (OAR 340-61-040(2)(c)) at Paisley, Fort Rock, Christmas Valley, Silver Lake, Summer Lake, Plush and Adel be granted to October 1, 1979, and that the Commission urge Lake County and the City of Paisley to work with the Department staff to prepare by September 1, 1979 a schedule for upgrading and/or justification for continuation of the variance.

No one was present to testify on this matter.

It was MOVED by Commissioner Densmore, seconded by Commissioner Somers and carried unanimously that the amended Director's recommendation be approved.

Mr. Ray Underwood, Department of Justice, pointed out that the Commission needed to make a finding as to the necessity for the continuation of the variance as required by statute.

In reconsidering their action on this matter, it was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that based on the findings as required by ORS 459.225, the variance is extended until October 1, 1979.

It was noted by Commissioner Somers that background material on this matter was presented to the Commission during a staff briefing at their breakfast meeting.

AGENDA ITEM H(3) - REQUEST FOR AN EXTENSION OF VARIANCES FROM RULES PROHIBITING OPEN BURNING DUMPS FOR DISPOSAL SITES IN LINCOLN COUNTY (OAR 340-61-040(2)(c))

Lincoln County is again requesting an extension of variances from rules prohibiting open burning dumps on behalf of two privately operated disposal sites. Previous variances were granted while the county was exploring several alternatives to open burning. Currently, a consultant is attempting to locate a regional sanitary landfill site to replace the two open burning dumps. The County believes it will be another year before the new site is available.

Summation

1. Lincoln County is in the process of identifying a new regional landfill site. Following completion of this study in the fall of 1979, the County plans to construct a new County landfill. Some method of transferring waste to the landfill from the north and south ends of the County will be necessary.
2. The new landfill will not be constructed for at least one year.
3. Agate Beach landfill could accept additional waste from the north and south ends of the County for a limited period of time in order to reach final grade on the second lift.
4. As soon as the transfer system is implemented, all solid waste except demolition waste should be transferred to either the Agate Beach site (until fall) or the new landfill and both the Waldport and North Lincoln sites be closed or converted to demolition sites.
5. Lincoln County should immediately begin seriously considering transfer system options, operation and financing. Their consultant's report this fall should outline several potential alternatives. The County should get itself to a point where a decision on this issue can be made rapidly after receiving the study results and that decision implemented without delay.
6. Lack of cover material and useable area at the North Lincoln site is beyond the control of the operator. The cost of importing cover material would be unreasonable and would result in closure of the site with no other alternative available.
7. The Waldport site could be converted to a modified landfill, however, the cost of obtaining adequate equipment is unreasonable if the site is to remain open only until the transfer system is implemented (estimated one year).

Director's Recommendation

Based upon the findings in the Summation, it is recommended that:

1. Lincoln County submit a plan and time schedule for implementing a transfer system and the new landfill to the Department by November 1, 1979. This plan must also address the question of whether the Waldport site will remain open as a modified landfill or whether waste will be transferred to the new landfill.
2. Lincoln County submit progress reports on implementation of the transfer system and new landfill to the Department on February 1, 1980 and May 1, 1980.
3. The open burning variance for the Waldport site be extended until the transfer system has been implemented, but not later than July 1, 1980, unless the transfer system plan referred to in number 1, above, recommends keeping the Waldport site open indefinitely as a modified demolition landfill. In that case, the open burning variance should terminate on April 1, 1980 and the site be converted to a modified demolition landfill.
4. The open burning variance for the North Lincoln disposal site be extended until the transfer system has been implemented, but not later than July 1, 1980.

Director Young said he had talked with representatives of the Oregon Sanitary Services Institute and they supported this request for variance.

Mr. Robert Gilbert, Northwest Region Manager, said there had been some confusion with regard to the Waldport site. He said they meant for the variance for Waldport to be open-ended to be considered for accepting garbage, and in the future as a demolition landfill.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried unanimously that the Director's Recommendation be approved.

AGENDA ITEM H(4) - REQUEST FOR VARIANCE FROM THE VOLATILE ORGANIC COMPOUNDS
RULE OAR 340-22-110 FOR CLARENCE STARK

This item is a request for variance from the Volatile Organic Compounds rule which requires installation of vapor recovery equipment on certain gasoline storage tanks.

Mr. Clarence Stark owns property which was formerly a service station, but which is now used for a used car sales lot. The lease provides for limited use of the gasoline storage tanks and pumps by the used car sales lot operator. The owner is going to remove all gasoline facilities when the lease expires on September 1, 1981. The vapor control equipment is required by April 1, 1981. A variance for this five-month period is required.

Summation

1. The lease between Mr. Stark and the automobile sales lot operator provides for retaining one set of gasoline pumps from the previous service station use of the property for use by the lessee.
2. The gasoline facilities are used for the automobile sales lot business and not for sales to the public.
3. The Volatile Organic Compounds Rule requires the installation of vapor control equipment in order to fill the gasoline storage tanks the last five months of the lease - June 1, 1981 to September 1, 1981.
4. The gasoline facilities will be removed when the lease expires on September 1, 1981.
5. The lessor is required to make an approximate \$700 capital improvement to provide lease conditions for a five month period.
6. Since the tanks will be filled no more than once or twice during this five month period, the impact of non-control on air quality is considered minor.

Director's Recommendation

Based on the findings in the Summation, it is recommended that a variance be granted to Mr. Stark from April 1, 1981 to September 1, 1981 from the installation of gasoline vapor control equipment required by OAR 340-22-110 in accordance with ORS 468.345(b), "special circumstances render strict compliance unreasonable, burdensome or impractical due to special physical conditions or cause."

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Director's Recommendation be approved.

AGENDA ITEM G(1) - MOTOR VEHICLE EMISSION TESTING RULES - PROPOSED ADOPTION OF AMENDMENTS TO MOTOR VEHICLE EMISSION TESTING RULES INCLUDING THE ADDITION OF STANDARDS FOR LIGHT- AND HEAVY-DUTY 1979 MODEL YEAR MOTOR VEHICLES AND THE INCLUSION OF CLARIFICATION OF PROCEDURES FOR THE TAMPERING PORTION OF THE INSPECTION TEST (OAR 340-24-300 THROUGH 24-350)

The proposed revisions to the motor vehicle inspection program rules are part of an annual review of those operating rules. Changes incorporated in these proposed revisions include the 1979 standards for both light- and heavy-duty motor vehicles and the addition of the inlet fuel filler restrictor as a pollution control device.

Summation

Comments from the public were received at the public hearing. In general the comments supported the inspection program standards for light-duty vehicles. Comments from the hearing regarding the heavy-duty standards were reviewed and appropriate modifications were made. The changes proposed for the inspection program rules are reasonable and update the standards for the current technology vehicles. The changes in procedures for the inclusion of the fuel filler inlet restrictor is consistent with the program direction.

Director's Recommendation

Based upon the summation, it is recommended that the Commission adopt the proposed rule amendments.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Director's recommendation be approved.

AGENDA ITEM G(2) - AIR CONTAMINANT DISCHARGE PERMIT RULES - PROPOSED ADOPTION OF AMENDMENT TO AIR CONTAMINANT DISCHARGE PERMIT FEE SCHEDULE OAR 340-20-155, TABLE A, AND AMENDMENT OF OAR 340-20-175 TO ALLOW EXEMPTION FROM NOTICE OF CONSTRUCTION REQUIREMENTS WHEN REQUIRED INFORMATION IS SUBMITTED WITHOUT PERMIT APPLICATION FOR NEW OR MODIFIED SOURCES

As a result of the budget process, the Department was directed to increase air permit fee revenues by about 16.5%. The matter before the Commission for adoption contains a revision of Table A in the Air Contaminant Discharge Permit regulation which increases the filing fee from \$25.00 to \$50.00 and increases the annual compliance determination fee by 14.5% across the board as recommended by the Air Contaminant Discharge Permit Task Force. These increases are projected to result in an additional \$85,000 for a total of \$625,000 during the forthcoming biennium.

In addition, this revision will exempt facilities filing permit applications from Notice of Construction requirements and procedures.

Summation

1. The Department was instructed by the Legislative Committee to increase permit fee revenues by the same inflation factor experienced by general fund programs.
2. The Air Permit Fees Task Force recommended an across the board increase in annual fees of 14.5% and an increase in the filing fee to \$50.00. This fee schedule would generate approximately \$625,000.
3. The Department proposed the Task Force's recommended changes at the public hearing and no adverse testimony was received.
4. By adding the Notice of Construction exemption proposed as 340-20-175, the Department can reduce the paperwork associated with the processing and evaluation of new or modified sources.

Director's Recommendation

Based upon the summation, it is recommended that OAR 340-20-155, 165, 175 and 180 as amended in the proposed regulation, be adopted.

It was MOVED by Commissioner Somers, seconded by Commissioner Hallock and carried unanimously that the Director's recommendation be approved.

AGENDA ITEM G(3) - OPEN BURNING RULES - PROPOSED ADOPTION OF AMENDMENTS TO RULES FOR OPEN BURNING (OAR 340-23-035 THROUGH 23-050)

This item proposes a rule adoption which would allow domestic backyard burning to continue in the Portland area until December 1980, and in the southern portion of the Valley until July 1982. Without the proposed extension, domestic open burning would be terminated July 1, 1979. During the interim, alternatives to domestic open burning are to be defined and developed with local advisory committees and the Solid Waste Division.

The staff anticipates, as a result of the alternative studies, the need for a further rule change before December 1980 which would limit the prohibition to those areas where identified alternatives are available.

Summation

1. Alternatives are not presently available for domestic open burning and a ban at this time will create a hardship. A development effort by the Department is underway to identify and develop practicable alternatives starting first in the Portland area. It is proposed to delay the ban for domestic open burning until December 31, 1980, in the Portland area and until July 1, 1982 in the rest of the Valley.
2. The present rules contain open burning control inconsistencies which need to be corrected. Some of the inconsistencies have led to misunderstandings and lack of public support. The proposed rule places urban and rural areas of the Valley under respectfully similar rules.
3. A definition of agricultural operations is necessary to clarify by which set of open burning rules certain of the public are controlled.
4. A longer period for spring and fall burning is proposed to access better burning weather. Both meteorological and air quality criteria will be used to determine which days open burning will be allowed.
5. A section is proposed which addresses the Department's intent to have burning conducted so as not to produce a nuisance or hazard.
6. Scappoose Rural Fire Protection District has requested to be placed in an open burning control category with the rest of Columbia County.

7. The coastal portion of Lane County has been excluded from the Willamette Valley Open Burning Control Area.

Director's Recommendation

Based upon the summation, it is recommended that the proposed rules for open burning (OAR 340-23-025 through 340-23-050 be adopted as presented in the staff report.

Mr. Doug Brannock of the Department's Air Quality Division, presented the following amendments to the Director's recommendation.

Amendments to Director's Recommendation

It is recommended that the rule proposed with the subject staff report be replaced by the proposed rule in Attachment A of the Addendum to the staff report dated June 25, 1979. Language has been corrected as follows:

1. Page 7 of the proposed rule, 340-23-030(16), definition of "Special Control Area" making it apply only to the Willamette Valley.
2. Page 14 of the proposed rule, 340-23-040(5) correcting the area in Multnomah and Washington Counties permitted to open burn construction and demolition waste.
3. Page 17 in 340-23-045(7) (a), correction of typographical error in spelling of "practicable."

Ms. Jeanne Roy, Portland AQMA Advisory Committee, said this is one area which individuals have a direct impact on air quality and if individuals are not required to quit burning they will not see air pollution as a serious problem. She said the Committee agreed that alternatives were not available to submit the public to completely quit burning. Ms. Roy said the Committee had prepared a letter to send to local entities regarding alternatives to open burning so that they may begin to analyze those alternatives. She asked for a clear statement from the Commission on whether or not they intended to ban backyard burning entirely.

Ms. Roy felt that something should be done to prepare the public in urban areas for a ban on backyard burning. They were concerned about the extension of time on the backyard burning seasons.

Ms. Melinda Renstrom, Oregon Environmental Council, said that OEC could not support an extension in backyard burning beyond 1980. Also, she said, they were not in agreement with the staff decision to extend the burning seasons in the spring and fall.

It was MOVED by Commissioner Densmore, seconded by Commissioner Hallock and carried with Commissioner Somers desenting that the Director's recommendation be approved and that the staff be instructed to return to the Commission with an improved, better understandable set of rules, and further alternatives to backyard burning by December 1979.

Commissioner Hallock requested that the staff keep track of the number of burning days during the extended fall burning period to determine if more days were used for burning than before the season was extended.

AGENDA ITEM G(4) - PROPOSED ADOPTION OF AMENDMENTS TO RULES GOVERNING CONTESTED CASE AND CIVIL PENALTY ASSESSMENT PROCEDURES (OAR 340-11-005(6), 11-116, 11-132 and 12-040)

The Hearings Section has undertaken a review of procedural rules and has proposed certain amendments.

Amendment of the civil penalty rule is needed to reflect a statutory change. Changes of the filing and subpoena rules are intended to increase clarity. The proposed amendment of the appeal procedure streamlines the appeal process by eliminating the present requirement of simultaneous filing of exceptions and arguments by the parties.

Summation

The proposed amendment to OAR 340-11-005(6) defines "filing" as "receipt in the Office of the Director."

The proposed amendments to OAR 340-11-116 are to clarify who may obtain and/or issue subpoenas and who may modify or withdraw one, how to serve it, and who pays the fees.

The proposed amendments to OAR 340-11-132 are intended to remove the present provision for simultaneous filing of exceptions and argument by all parties.

The proposed amendments to OAR 340-12-040 add intentional violations, unauthorized deposition of sewage or solid waste, and unauthorized installation of subsurface sewage disposal systems to the list of violations for which the imposition of a civil penalty does not have to be preceded by a five-day notice. The proposed rule reflects the amendment of ORS 468.125 by the Legislature in 1977.

Director's Recommendation

Based upon the Summation, it is recommended that the proposed rules be adopted.

It was MOVED by Commissioner Somers, seconded by Commissioner Phinney and carried unanimously that the Director's recommendation be approved.

FIELD BURNING RESEARCH AND DEVELOPMENT BUDGET FOR FISCAL YEAR 1980

For the last several months, field burning staff members have been working with the Advisory Committee on Field Burning, as well as its subcommittees, to develop the budget sent to you earlier. The budget development was subject to normal public participation processes and representatives of all interested parties participated.

Research projects address smoke management and air quality needs, the development of alternative field treatment, and health effects.

Since the draft budget was sent to the Commission, the Advisory Committee adopted the draft budget as final. Commission approval only was sought.

Director's Recommendation

It is recommended that the Commission concur in the budget development process followed by the Department and the Advisory Committee on Field Burning and approve the proposed budget.

Mr. Donald Haagenson, attorney representing Oregon Seed Council, said it was his understanding that this item was not something that traditionally had been submitted to the Commission for approval. Upon reading the statute, he said, it appeared that the Department had the sole responsibility for this matter. By submitting this budget to the Commission, Mr. Haagenson continued, the letting of contracts for getting the research done has been delayed.

It was MOVED by Commissioner Densmore, seconded by Commissioner Hallock and carried unanimously that the Commission concur with the Director's judgment in this matter.

AGENDA ITEM I - DEQ v. MR. AND MRS. E. W. MIGNOT - MOTION TO DISMISS REQUEST FOR COMMISSION REVIEW

Mr. E. W. Mignot appeared and maintained that there was no way of telling where the property line was in this case, and therefore no way of determining that the violation occurred on his property.

Chairman Richards told Mr. Mignot that the matter the Commission had before it dealt only with a motion to dismiss which had nothing to do with the merits of the case. As of this date, Chairman Richards said, Mr. Mignot had not filed any exceptions or arguments to the Hearing Officer's order and under the Commission's rules Mr. Mignot was considered to have abandoned his appeal.

Mr. Mignot said he believed his attorney had filed exceptions and arguments.

It was MOVED by Commissioner Somers, seconded by Commissioner Densmore and carried with Chairman Richards dissenting that the motion to dismiss be overruled and that Mr. Mignot be granted an additional 60 days to file his exceptions in this matter.

AGENDA ITEM L - PROPOSED ADOPTION OF TEMPORARY RULES REGULATING OPEN FIELD BURNING, OAR CHAPTER 340, SECTION 26-005 AND SECTION 26-015

EPA, in reviewing various aspects of DEQ's SIP submittals, sought clarification of certain regulations. In response, the Department is proposing rule changes to:

1. Clarify certain rule language;
2. Reconcile inconsistencies between rule language and operating procedures;
3. Provide for the use of field burning techniques to meet "continuous emission control" requirements.

Any adopted revision would be submitted to EPA along with other materials in support of the Department's SIP revision request.

Summation

The Environmental Protection Agency (EPA) Region X, has reviewed the Department's proposed revision to Oregon's Clean Air Act State Implementation Plan (SIP) and has requested additional clarification and changes affecting field burning regulations and procedures. EPA requests and proposed Department responses are summarized as follows:

1. Provide justification for the change in relative humidity restrictions on field burning from 50% to 65% as adopted by the EQC in December 1978.

The Department would propose to submit further technical justification based upon and including the straw moisture content study conducted by the Department during the 1978 summer burning season.

2. Identify the Department's regulatory authority to burn more than one quota of acreage per day in a fire district.

The Department proposes, for EQC adoption, a revision to OAR 340-26-015(2), to redefine the term quota and specifically provide authority for issuance of single, multiple, or fractional quotas. The language of the proposed revisions would better reflect actual operating procedures.

3. Identify and incorporate the use of constant emission control techniques for field burning.

The Department proposes for EQC adoption a revision to OAR 340-26-005 and 26-015(4)(e)(A), to define a perimeter lighting technique and to require the use of either perimeter lighting or into-the-wind striplighting on all fields under all conditions. Due to the relatively low ground level smoke impact of perimeter lighting, as demonstrated by recent research, and the relatively lower emissions of into-the-wind striplighting, the use of either technique is proposed as continuous emission control.

4. Clarify the definition of "Prohibition Conditions."

The Department proposes for EQC adoption, a revision to OAR 340-26-015(1)(c) to clarify the current wording such that prohibition conditions are in effect whenever: (1) northerly winds exist and vertical mixing is less than or equal to 3500 feet; or (2) relative humidity exceeds 65%. The proposed rule reflects actual operating procedures.

The Department proposes rules changes for (2), (3) and (4) above in order to ensure maximum state control of field burning, to make the rules more compatible with actual operating procedures, and to clarify the rule language and meaning.

Staff believes the Commission should find that failure to act promptly would result in serious prejudice to the public interest and to the public interest of the parties involved for the specific reason that the 1979 field burning season is imminent and the burning of 50,000 acres during the first 30 days of the season is feasible. Thus, normal notice procedures for adoption of permanent rules would not allow, in a timely manner, resolution of EPA's concerns nor approval of the proposed SIP revision.

Director's Recommendation

Based upon the findings in the summation, it is recommended that the Commission take the following action:

1. Acknowledge as of record the consultation with and recommendations of Oregon State University and the Department and any other parties consulted pursuant to ORS 468.460(3).
2. Enter a finding that failure to act promptly will result in serious prejudice to the parties involved and to the public interest for the specific reasons cited above.
3. Subject to any changes found appropriate as a result of recommendations made to the Commission or findings reached at this June 29, 1979 meeting, adopt the proposed amendments to OAR Chapter 340, Sections 26-005 and 26-015 as temporary rules to become immediately upon filing with the Secretary of State.

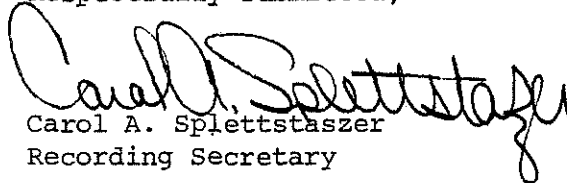
4. Instruct the Department to file promptly the adopted rules and findings with the Secretary of State as temporary rules to become effective immediately upon such filing and to remain effective for 120 days thereafter and to forward the rules and other pertinent information to EPA as a supplement to the previously submitted revision to Oregon's Clean Air Act State Implementation Plan.

Mr. Terry Smith, City of Eugene, submitted memorandums from the City of Eugene objecting to the timing and nature of the proposed action. He said the proposed moisture control and ignition technique rules did not reflect reasonably available control technologies. Further, the time and manner of notice of this hearing were contrary to federal law. Those two objections, he said, if not met would doom the proffered SIP as a matter of law. These memorandums are made a part of the Commission's record on this matter.

It was MOVED by Commissioner Densmore, seconded by Commissioner Hallock and carried unanimously that the Director's recommendation be approved.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Carol A. Spletstaszer
Recording Secretary



State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

file AQ - EQC

INTEROFFICE MEMO

To: Distribution Below
From: Carol Splettstaszer
Subject: New EQC Member - Fred Burgess

Date: 6/12/79

Attached for your information is the Governor's news release on the appointment of Fred Burgess to the Environmental Quality Commission.

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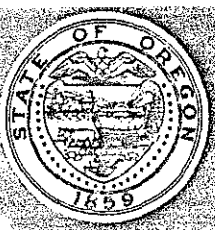
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Carol

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

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AIR QUALITY CONTROL



State of Oregon
OFFICE OF THE GOVERNOR

Gov. Vic Atiyeh
State Capitol
Salem, Oregon
378-3121

June 5, 1979

Gov. Vic Atiyeh has appointed Fred J. Burgess, Dean of the Oregon State University School of Engineering, as a member of the Environmental Quality Commission (EQC). Burgess will begin a four-year term on the commission July 1, 1979.

Burgess, 52, fills the spot on the commission held by Dr. Grace Phinney, Corvallis, who has served on the EQC since 1973.

The EQC is a five-member commission which establishes policy for the Department of Environmental Quality (DEQ). Its members serve for four year terms and they must be confirmed by the Senate.

The DEQ is charged with preserving the quality and purity of the air and waters of Oregon in accordance with the policy established by the EQC.

"Fred Burgess will offer the EQC an extensive background as a professional engineer and university administrator," Gov. Atiyeh said in making the appointment.

#

NOTE: Burgess is 52, but his birthday is just two days away.

DEANS OFFICE ENGINEERING

OREGON STATE UNIVERSITY

School of Engineering

BURGESS, Fredrick J.
Professor
Dean of Engineering

BIRTH DATE
June 7, 1926

DEGREES

B.S. Civil Engineering, Oregon State University, 1950
M.S. Sanitary Engineering, Harvard University, 1955

ACADEMIC POSITIONS

Oregon State University, 1953-Instructor through Professor
Acting Assistant Dean, School of Engineering, 1962-63
Assistant to Dean, School of Engineering, 1964-66
Head, Department of Civil Engineering, 1966-1971
Acting Dean, School of Engineering 6/70-3/71
Dean, School of Engineering 3/71-

NON-ACADEMIC POSITIONS

Oregon State Sanitary Authority, 1950-1953
Nalley, Inc., Consultant, 1960-1963
U.S. Public Health Service, Division of Water Supply and Pollution
Control, Consultant, 1961-1963
Federal Water Pollution Control Administration, Consultant, 1966-1969
U.S. Forest Service, Consultant, 1966-1968
Consultant on Waste Treatment, Various Oregon Cities

FIELDS OF SPECIALIZATION

Environmental Engineering & Planning, Water Pollution Control,
Waste Treatment

PROFESSIONAL ACTIVITIES

Registration

State of Oregon, No. 3339

Professional Societies

American Society of Civil Engineers
Professional Engineers of Oregon
American Water Works Association
Pacific Northwest Water Pollution Control Association
American Society for Engineering Education
National Society of Professional Engineers
American Environmental Engineering Intersociety Board
American Academy of Environmental Engineers
Associated General Contractors--Oregon-Columbia Chapter

(continued on next page)

BURGESS, Fredrick J.
Professor
Dean of Engineering

PROFESSIONAL ACTIVITIES (cont)

Professional Recognition

Tau Beta Pi

Sigma Xi

Herschel Clemens Award, Harvard University, 1955

Individual Distinguished Achievement Award, Pacific Northwest
Pollution Control Association, 1962

National Conference on Pollution and Marine Ecology, March 1966,
Co-Chairman and Secretary

SIR Award-Associated General Contractors, Oregon-Columbia Chapter,
November 1972

Committees, Commissions and Boards

Environmental Science Study Section, National Institutes of Health
USPHS; Member 1963-67

Environmental Health Review Committee, USPHS Bureau of Health
Manpower, Member 1960-61, Chairman 1961-62, Reappointed
Member 1969-70

Training and Research Review Panel, Federal Water Quality
Administration, Member 1965-70, Environmental Protection
Agency 1970-

Ocean Engineering Committee (National) American Society of Civil
Engineers, 1969-71

Ocean Engineering Committee (National) American Society for
Engineering Education, 1968-71

Oregon Capitol Planning Commission 7/70-6/73

City of Corvallis, Planning Commission, 1966-72, President 1970-72

AGC-OSU Cooperative Constructive Education Committee, 1967-

OSU-Governors Advisory Committee on Environmental Science &
Technology 1970-1975

OSU-Governors Advisory Committee on Coastal Zone Planning 1969-71

Board of Trustees, Oregon Museum of Science and Industry 1971-

OSU Deans Council 1970-

Oregon Interim Committee of Legislature on Alternatives for Field
Burning 1970-1975, 1977-

Board of Directors - Oregon Graduate Center 1973-

Board of Directors - Northwest College and University Association for
Science 1976-

Board of Directors - Joint Center for Graduate Study, Richland, Wash.
1972-

PUBLICATIONS

Books

"Pollution and Marine Ecology," Olson, T. A., F. J. Burgess (Editors),
Interscience Division, John Wiley, 1967.

Technical Journals

"Short School and Certification for Sewage Works Operators" (with
C. W. Wright), Sewage and Industrial Waste Journal, May 1954,
pp. 85-93.

(continued on next page)

BURGESS, Fredrick J.
 Professor
 Dean of Engineering

PUBLICATIONS (cont)

Technical Journals (cont)

- "Evaluation Criteria for Deep Trickling Filters," (with C. M. Gilmour, F. Merryfield, and J. K. Carswell), Journal Water Pollution Control Federation, Oregon State University, Engineering Experiment Station, Reprint No. 65, August 1961
- "Training Course in Water Distribution--Distribution Manual, AWWA M8" (with E. H. Aldrich, F. Merryfield, and W. C. Westgarth), American Water Works Association, 1961, pp. 1-165.
- "Identification of Low Flow Augmentation Requirements for Water Quality Control by Digital Computer Techniques," (with J. L. Worley, W. W. Towne), Journal of Water Pollution Control Association, May 1965, pp. 659-673.
- "Federal Water Pollution Laboratories," A discussion, Journal Sanitary Engineering Division ASCE, December 1966, Vol. 92 SA6.
- "Carbon Treatment of Kraft Mill Condensate Wastes," Hansen, S. P., F. J. Burgess, TAPPI, Vol. 51, No. 6, June 1968, pp. 241-246.
- "The Use of Aerial Photogrammetry in Predicting Outfall Diffusion," James, W. P., F. J. Burgess, National Council for Air and Stream Improvement Tech. Bulletin No. 231, pp. 1-26, Dec. 1969.
- "Airphoto Analysis of Ocean Outfall Dispersions," James, W. P., F. J. Burgess, Photogrammetric Engineering Vol. 36, No. 12, Dec. 1970, pp. 1241-1250.
- "Pulp Mills take to the Air to Monitor Ocean Outfalls," Burgess, F. J., W. P. James, Pulp and Paper, Sept. 1970, pp. 66-68.
- "Pulp Mill Outfall Analysis by Remote Sensing Techniques," James, W. P., F. J. Burgess, TAPPI, Vol. 54, No. 3, March 1971.

Conference Proceedings

- "Disposal of White Water Wastes from Hardboard Manufacturing by Irrigation," (with F. Merryfield and O. W. Frost), Proceedings 1952 Pacific Northwest Industrial Conference, Washington State University.
- Basic Manual for Water Works Operators Parts No. I & II, Oregon State University, Department of Civil Engineering, 1956.
- Basic Manual for Sewage Works Operators Parts No. I & II, Oregon State University, Department of Civil Engineering, 1957.
- "Persulfate Oxidizable Carbon and BOD as a Measure of Organic Pollutants in Water," (with C. M. Gilmour, F. Merryfield, L. Purkerson, J. K. Carswell), Proceedings Purdue Industrial Waste Conference, May 1961, pp. 143-149.
- "Sewage Lagoons" (with S. A. Washburn), Oregon Health Bulletin No. 11, Oregon State Board of Health, Vol. 39, November 1961.
- "Highway Research-Engineering Manpower and the Universities," Proceedings 1964 Streets and Roads Conference, Engineering Experiment Station, Circular No. 30, pp. 74-81.
- "Systems Analysis Approach to Water Quality Prediction in a Complex River Basin," (with J. L. Worley), Proceedings Western Resources Boulder, Colorado, July 15, 1964, pp. 1-25.

(continued on next page)

BURGESS, Fredrick J.
Professor
Dean of Engineering

PUBLICATIONS (cont)

Conference Proceedings (cont)

"Water-Water Everywhere," Engineering Experiment Station, Circular
No. 35, Nov. 1966, pp. 1-19.

Reports and Others

"Monitoring of Waste Dispersion from Ocean Outfalls by Aerial
Photogrammetry," Oregon State University Engineer, Jan. 1971,
Vol. 6, No. 2.

"Aerial Photographic Tracing of Pulp Mill Effluents in Marine Waters,"
Burgess, F. J., W. P. James, Federal Water Quality Administration,
Water Pollution Control Research Series No. 12040 EBY, August 1970,
pp. 1-156.

"Airphoto Analysis of Ocean Outfall Dispersion," Burgess, F. J.,
W. P. James, U. S. Environmental Protection Agency, Water
Pollution Control Research Series No. 16070 ENS, June 1971,
pp. 1-285.

"Engineering Education in Oregon," Burgess, F. J., School of Engineering,
Miscellaneous Report Series, April 1972, pp. 1-100.

"Engineering Education in Oregon," Burgess, F. J., School of Engineering,
Miscellaneous Report, August 1978, pp. 1-88.

Rev. 10/78

R E C E I V E D

JUN 07 1979

PUBLIC AFFAIRS



Environmental Quality Commission

POST OFFICE BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item B, June 29, 1979, EQC Meeting

May Program Activity Report

Discussion

Attached is the May Program Activity Report.

ORS 468.325 provides for Commission approval or disapproval of plans and specifications for construction of air contaminant sources.

Water and Solid Waste facility plans and specifications approvals or disapprovals and issuance, denials, modifications and revocations of permits are prescribed by statutes to be functions of the Department, subject to appeal to the Commission.

The purposes of this report are:

- 1) to provide information to the Commission regarding the status of reported program activities and an historical record of project plan and permit actions;
- 2) to obtain confirming approval from the Commission on actions taken by the Department relative to air contamination source plans and specifications; and
- 3) to provide a log on the status of DEQ contested cases.

Recommendation

It is the Director's Recommendation that the Commission take notice of the reported program activities and contested cases, giving confirming approval to the air contaminant source plans and specifications listed on pages 2 and 3 of the report.

WILLIAM H. YOUNG

M. Downs: ahe
229-6485
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DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Report

May, 1979

Month

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality, Water Quality,
Solid Wastes DivisionsMay, 1979

(Reporting Unit)

(Month and Year)

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans Pending
	Month	Fis.Yr.	Month	Fis.Yr.	Month	Fis.Yr.	
<u>Air</u>							
Direct Sources	<u>35</u>	<u>215</u>	<u>14</u>	<u>185</u>	<u>0</u>	<u>2</u>	<u>71</u>
Total	<u>35</u>	<u>215</u>	<u>14</u>	<u>185</u>	<u>0</u>	<u>2</u>	<u>71</u>
<u>Water</u>							
Municipal	<u>139</u>	<u>1,215</u>	<u>118</u>	<u>1,132</u>	<u>0</u>	<u>0</u>	<u>47</u>
Industrial	<u>29</u>	<u>133</u>	<u>21</u>	<u>120</u>	<u>0</u>	<u>0</u>	<u>30</u>
Total	<u>167</u>	<u>1,348</u>	<u>139</u>	<u>1,252</u>	<u>0</u>	<u>0</u>	<u>77</u>
<u>Solid Waste</u>							
General Refuse	<u>2</u>	<u>19</u>	<u>1</u>	<u>18</u>	<u>0</u>	<u>2</u>	<u>4</u>
Demolition	<u>1</u>	<u>7</u>	<u>1</u>	<u>3</u>	<u>0</u>	<u>0</u>	<u>2</u>
Industrial	<u>0</u>	<u>22</u>	<u>0</u>	<u>25</u>	<u>0</u>	<u>0</u>	<u>1</u>
Sludge	<u>0</u>	<u>3</u>	<u>2</u>	<u>5</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	<u>3</u>	<u>51</u>	<u>4</u>	<u>51</u>	<u>0</u>	<u>2</u>	<u>7</u>
<u>Hazardous Wastes</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
 <u>GRAND TOTAL</u>	 <u>205</u>	 <u>1,614</u>	 <u>157</u>	 <u>1,488</u>	 <u>0</u>	 <u>4</u>	 <u>155</u>

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT - 14

Air Quality Division
(Reporting Unit)

May, 1979
(Month and Year)

PLAN ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	* *
----------	--	-----------------------	----------	-----

Direct Stationary Sources

Jackson (NC 1154)	SWF Plywood Company Remove WWB, install wood fired veneer dryer.	3/19/79	Approved	
Jackson (NC 1155)	SWF Plywood Company Energy conversion on veneer dryer.	3/19/79	Approved	
Curry (NC 1292)	Brookings Energy Facility, Inc., Incinerator	5/1/79	Approved	
Yamhill (NC 1328)	Publishers Paper Co. Demister for recovery furnace	3/8/79	Approved	
Deschutes (NC 1356)	Brooks-Scanlon, Inc. Re-build hog boiler	3/28/79	Approved	
Umatilla (NC 1358)	Blue Mt. Forest Products, Inc., Hog boiler & dry kilns	4/24/79	Approved	
Portable (NC 1363)	Hap Taylor Inc. Asphalt plant	3/28/79	Approved	
Portable (NC 1374)	Babler Brothers, Inc. Baghouse	4/30/79	Approved	
Linn (NC 1383)	Willamette Industries, Bauman, Paving roadway	5/16/79	Approved	
Portable (NC 1384)	Mid Oregon Crushing Co. Baghouse for asphalt plant	5/11/79	Approved	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division	May, 1979
(Reporting Unit)	(Month and Year)

PLAN ACTIONS COMPLETED - 14, cont'd

*	County	*	Name of Source/Project	*	Date of	*	Action	*
*		*	/Site and Type of Same	*	Action	*		*
*		*		*		*		*

Direct Stationary Sources (Cont.)

Clatsop (NC 1396)	Crown-Zellerbach Improve air distribution to ESP	5/3/79	Approved
Douglas (NC 1399)	Roseburg Lumber Co. Baghouse	5/15/79	Approved
Multnomah (NC 1404)	Gilmore Steel Corp. Heat treating bldg.	5/23/79	Approved
Linn (NC 1406)	Duraflake Forced air cooled board	5/18/79	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

May, 1979
(Month and Year)

SUMMARY OF AIR PERMIT ACTIONS

	<u>Permit</u> <u>Actions</u> <u>Received</u>		<u>Permit</u> <u>Actions</u> <u>Completed</u>		<u>Permit</u> <u>Actions</u> <u>Pending</u>	<u>Sources</u> <u>Under</u> <u>Permits</u>	<u>Sources</u> <u>Reqr'g</u> <u>Permits</u>
	<u>Month</u>	<u>FY</u>	<u>Month</u>	<u>FY</u>			
<u>Direct Sources</u>							
New	6	10	5	34	27		
Existing	3	30	0	44	15		
Renewals	12	110	34	104	80		
Modifications	0	62	5	78	12	1902	1944
Total	21	248	44	260	134	-	-
<u>Indirect Sources</u>							
New	6	32	1	29	17		
Existing	-	-	-	-	-		
Renewals	-	-	-	-	-		
Modifications	-	6	0	6		119	
Total	6	38	1	35	17		
<u>GRAND TOTALS</u>	27	286	45	295	151	2120	1942
15 A-95's 45 Technical Assistancess							

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division

(Reporting Unit)

May, 1979

(Month and Year)

PERMIT ACTIONS COMPLETED - 45

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
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Direct Stationary Sources

Clackamas	Northwest Sand & Gravel 03-0173, (Renewal)	5/11/79	Permit Issued
Clackamas	Oregon Portland Cement 03-1840, (Renewal)	5/23/79	Permit Issued
Clackamas	Portland Road & Driveway 03-1898, (Renewal)	5/11/79	Permit Issued
Clackamas	Portland Road & Driveway 03-2452, (Renewal)	5/11/79	Permit Issued
Columbia	Mist Shake & Ridge 05-1786, (Renewal)	5/11/79	Permit Issued
Columbia	St. Helens Paving Co. 05-2017, (Renewal)	5/11/79	Permit Issued
Coos	Weyerhaeuser Co. 06-0007, (Modification)	5/8/79	Permit Issued
Coos	Roseburg Lumber Co. 06-0010, (Renewal)	5/11/79	Permit Issued
Coos	Georgia-Pacific Corp. 06-0012, (Renewal)	5/11/79	Permit Issued
Crook	Bendix Forest Products 07-0002, (Modification)	5/11/79	Permit Issued
Curry	Fourply Inc. 08-0002, (Renewal)	5/11/79	Permit Issued
Douglas	Empire Pacific Industries 10-0120, (New)	5/11/79	Permit Issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

May, 1979
(Month and Year)

PERMIT ACTIONS COMPLETED - 45, cont'd

* County	* Name of Source/Project	* Date of	* Action	*
*	* /Site and Type of Same	* Action	*	*
*	*	*	*	*

Direct Stationary Sources (Cont.)

Harney	Deschutes ready Mix Sand & Gravel 13-0011, (New)	5/11/79	Permit Issued
Jackson	Rogue River Paving 15-0003, (Renewal)	5/11/79	Permit Issued
Jackson	Boise Cascade Lumber 15-0004 (Renewal)	5/15/79	Permit Issued
Jackson	SWF Plywood Plant #6 15-0006, (Renewal)	5/11/79	Permit Issued
Jackson	SWF Plywood Plant #5 15-0012 (Renewal)	5/17/79	Permit Issued
Jackson	Kogap Manufacturing 15-0015 (Renewal)	5/15/79	Permit Issued
Jackson	Boise Cascade 15-0020 (Renewal)	5/11/79	Permit Issued
Jackson	Timber Products Co. 15-0025, (Renewal)	5/11/79	Permit Issued
Jackson	White City Plywood Co. 15-0040, (Renewal)	5/11/79	Permit Issued
Jackson	Husky Industries, Inc. 15-0058, (Renewal)	5/11/79	Permit Issued
Jackson	Spra-Mulch Industries 15-0124 (New)	5/15/79	Permit Issued
Lincoln	Oceanlake Paving Co. 21-0002, (Renewal)	5/11/79	Permit Issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

May, 1979
(Month and Year)

PERMIT ACTIONS COMPLETED - 45, cont'd

* County	* Name of Source/Project	* Date of	* Action	*
*	* /Site and Type of Same	* Action	*	*
*	*	*	*	*

Direct Stationary Sources (Cont.)

Linn	Nordstrand Cedar Prod. Inc. 22-5210, (Modification)	5/11/79	Permit Issued
Marion	Brookman Cast Industries 24-4980 (New)	5/15/79	Permit Issued
Morrow	Readymix Sand & Gravel 25-0013 (Renewal)	5/11/79	Permit Issued
Multnomah	Oregon Asphaltic Paving 26-1765 (Renewal)	5/15/79	Permit Issued
Multnomah	Ross Island Sand & Gravel 26-1942, (Renewal)	5/11/79	Permit Issued
Multnomah	Rockwood School Sch. Dst. 7 26-2891, (Modification)	5/8/79	Permit Issued
Multnomah	Park School Sch. Dist. 7 26-2892, (Modification)	5/8/79	Permit Issued
Polk	Mico-Pacific Grains 27-6019, (Renewal)	5/11/79	Permit Issued
Tillamook	Gold Metal Cedar Products 29-0017, (Renewal)	5/11/79	Permit Issued
Umatilla	Ready Mix Sand & Gravel 30-0002, (Renewal)	5/11/79	Permit Issued
Wallowa	Starnar Lumber Co. 32-0003, (Renewal)	5/11/79	Permit Issued
Washington	Western Foundry Company 34-1879, (Renewal)	5/11/79	Permit Issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division

(Reporting Unit)

May, 1979

(Month and Year)

PERMIT ACTIONS COMPLETED - 45, cont'd

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action
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Direct Stationary Sources (cont.)

Portable	Roy Houck Construction Co. 37-0022, (Renewal)	5/15/79	Permit Issued
Portable	Tillamook County Road Dept. 37-0034, (Renewal)	5/11/79	Permit Issued
Portable	S. D. Spencer & Sons 37-0052, (Renewal)	5/11/79	Permit Issued
Portable	Norcap Construction Co. 37-0086, (Renewal)	5/11/79	Permit Issued
Portable	Babler Bros. Inc. 37-0094. (Renewal)	5/11/79	Permit Issued
Portable	Oregon State Hwy. Division 37-0098, (Renewal)	5/11/79	Permit Issued
Portable	S. D. Spencer & Sons 37-0109, (Renewal)	5/11/79	Permit Issued
Portable	Deschutes Ready Mix Sand & Gravel 37-0220 (New)	5/15/79	Permit Issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

<u>Air Quality Division</u>	<u>May, 1979</u>
(Reporting Unit)	(Month and Year)

PERMIT ACTIONS COMPLETED - 45, cont'd

*	County	*	Name of Source/Project	*	Date of	*	Action	*
*		*	/Site and Type of Same	*	Action	*		*
*		*		*		*		*

Indirect Sources

Multnomah	Harbor Square Offices and Parking Structure	5/25/79	Final Permit Issued
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DEPARTMENT OF ENVIRONMENTAL QUALITY

WATER QUALITY DIV. ACTIVITY REPORT

6/11/79 PLAN ACTIONS COMPLETED: 139

MUNICIPAL SOURCES

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FOR MAY 1979

ENGINEER	LOCATION	PROJECT	REVIEWER	DATE REC	DATE OF ACTION	ACTION	DAYS TO COMPLETE
COUNTY							
	SALEM	STATE & HAWTHORNE STREET	J	5/07/79	5/16/79	COMMENTED	09
	BROOKINGS	CAMEO SUBD	J	5/02/79	5/08/79	COMMENTED	06
15	SHADY COVE	STP PLAN AND SPECS--FINALS	V	4/17/79	5/03/79	COMMENTS	16
	SHADY COVE	COLLECTION SYSTEM PRELIM	V	1/11/79	5/03/79	COMMENTS	12
3	MOLALLA	VILLAGE GREEN NO 1	J	4/17/79	5/10/79	PROV APP	23
34	HILLSBORO	RED BARN	J	4/20/79	5/08/79	PROV APP	18
24	SALEM	REVISED-CHANDELLE SUBD	J	4/13/79	5/08/79	PROV APP	25
26	GRESHAM	HEATHERWOOD	J	4/13/79	5/08/79	PROV APP	25
24	SALEM	WILARK PARK WEST NO 7	J	4/20/79	5/08/79	PROV APP	18
24	SALEM	CAMBRIDGE WOODS ESTATES-3	J	4/11/79	5/08/79	PROV APP	27
3	WEST LINN	TEL KADESH SUBD	J	4/23/79	5/04/79	PROV APP	11
34	UNI SWR AGCY	HOLLY TREE VIL	K	4/30/79	5/17/79	PROV APP	17
	WOODBURN	EAST CLEVELAND PROJ	K	4/27/79	5/21/79	PROV APP	24
24	SALEM	LOHEBROOK ADD	K	4/30/79	5/11/79	PROV APP	11
34	HILLSBORO	GAYLERENE	K	4/27/79	5/14/79	PROV APP	17
20	SPRINGFIELD	MILD WEST PARK	K	4/27/79	5/15/79	PROV APP	18
18	K FALLS	HILL ST PROJECT	K	4/30/79	5/11/79	PROV APP	11
24	SALEM	RIVERA SUBDIV NO 3	K	4/30/79	5/14/79	PROV APP	14
10	WINCHESTER SD	US 101 PUMP STA'S-PRESS MN	K	4/26/79	5/11/79	PROV APP	15
20	FLORENCE	15TH COURT	J	4/13/79	5/15/79	PROV APP	22
10	ROSEBURG	LOMA VISTA SUBD PHASE 1	J	4/24/79	5/15/79	PROV APP	21
15	MEDFORD	SUN OAKS 3 & 4	J	4/17/79	5/16/79	PROV APP	29
	PORTLAND	33RD-CAROLINA PROJ	K	5/23/79	5/25/79	PROV APP	02
	GRANTS PASS	"A" STREET-FRY-ELM	K	5/23/79	5/25/79	PROV APP	02
	GRANTS PASS	FRY STREET-BELVUE	K	5/22/79	5/25/79	PROV APP	03
	OAK LODGE SD	MCREE'S ADDITION	K	5/22/79	5/25/79	PROV APP	03
	LEBANON	QUAIL PARK ADD	K	5/29/79	5/31/79	PROV APP	02
	MONROE	WILLIAMS SEWER	K	5/30/79	5/31/79	PROV APP	01
	GRESHAM	RAUTIO SUBDIV REV	K	5/29/79	5/31/79	PROV APP	02
	MEDFORD	KING CENTER-IND PARK	K	5/28/79	5/31/79	PROV APP	03
	TWIN ROCKS SD	TERWILLIGER VIEW SUBDIV	K	5/25/79	5/31/79	PROV APP	06
	MYRTLE POINT	BOBCAT VILLAGE	K	5/28/79	5/31/79	PROV APP	03
	CORNELIUS	HEATHER PARK	K	5/29/79	5/30/79	PROV APP	01
	BEND	AUDREY ROAD EXT	K	5/25/79	5/30/79	PROV APP	05
	BROOKINGS	DOANE SEWER EXT	K	5/25/79	5/30/79	PROV APP	05
	SPRINGFIELD	EMERALD HEIGHTS	K	5/17/79	5/30/79	PROV APP	13
	BEND	TANGLEWOOD PHASE 1	K	5/21/79	5/30/79	PROV APP	09
	SHERIDAN	HOR PARK ADD NO 1	K	5/18/79	5/23/79	PROV APP	05
	CCSD#1-OAK LE	WILDROSE PARK	K	5/18/79	5/23/79	PROV APP	05
	USA	SP INDUSTRIAL PARK	J	5/23/79	5/30/79	PROV APP	07
	THE DALLES	POMOHA ST FROM W 6TH	J	5/25/79	5/30/79	PROV APP	05
	EUGENE	SPENCERS CREST	K	5/24/79	5/29/79	PROV APP	05
	MONROE	MOODY SWR PROJECT	K	5/17/79	5/22/79	PROV APP	05
	SALEM	STONE CREEK SWR	K	5/13/79	5/21/79	PROV APP	03
	BURNS	PIERCE ST EXT	N	4/26/79	5/13/79	PROV APP	22
	MULT CO	NE 92ND-SIMPSON PROJ	K	5/11/79	5/18/79	PROV APP	07
	SPRINGFIELD	MARY HILL SUBDIV	K	5/14/79	5/18/79	PROV APP	04

DEPARTMENT OF ENVIRONMENTAL QUALITY WATER QUALITY DIV. ACTIVITY REPORT

6/11/79 PLAN ACTIONS COMPLETED (Cont.) MUNICIPAL SOURCES FOR MAY 1979

ENGINEER	LOCATION	PROJECT	REVIEWER	DATE REC	DATE OF ACTION	ACTION	DAYS TO COMPLETE
COUNTY							
	HTCSA	NECARNEY CITY SUBDIV	K	5/14/79	5/18/79	PROV APP	04
	SALEM	REVISED WILLAMETTE LANDING	J	5/01/79	5/02/79	PROV APP	02
	SPRINGFIELD	HENTHORNE HEIGHTS	J	5/16/79	5/18/79	PROV APP	02
	SPRINGFIELD	THURSTON MEADOWS 1ST	J	5/16/79	5/18/79	PROV APP	02
	SALEM	WOODSCAPE 2	J	5/17/79	5/21/79	PROV APP	04
	SPRINGFIELD	KING ARTHUR	J	5/17/79	5/21/79	PROV APP	04
	SALEM	MILDRED ESTATES	J	5/17/79	5/21/79	PROV APP	05
	WEST LINN	CANYON CREST	J	5/17/79	5/18/79	PROV APP	01
	USA	CLEETON SEWER EXT	J	5/16/79	5/21/79	PROV APP	05
	CCSD NO 1	LAWNFIELD-98TH COURT	K	5/16/79	5/21/79	PROV APP	05
	WILSONVILLE	CHARBONNEAU Q NEIGHBORHOOD	J	5/14/79	5/22/79	PROV APP	08
	CCSD	STARLIGHT MEADOWS	J	5/21/79	5/22/79	PROV APP	01
	USA	MANORWOOD PARK	J	5/21/79	5/22/79	PROV APP	01
	USA	TALLAC TERRACE	J	5/21/79	5/22/79	PROV APP	01
	BAKER	FAULLS ADDITION-E ST	J	5/21/79	5/30/79	PROV APP	09
	ASHLAND	INDUSTRIAL PARK	J	5/14/79	5/21/79	PROV APP	07
	SALEM	LUCAS VALLEY	J	5/03/79	5/08/79	PROV APP	05
	USA	EVENING DOWN	J	5/03/79	5/08/79	PROV APP	05
	MULTNOMAH CO	NE 175TH AVE EXT	J	5/03/79	5/09/79	PROV APP	06
	PORTLAND	N SKIDMORE TERRACE	J	5/01/79	5/08/79	PROV APP	07
	HILLSBORO	ANTHONY PARK	J	5/01/79	5/08/79	PROV APP	07
	HILLSBORO	MAYFIELD 2	J	5/01/79	5/08/79	PROV APP	07
	HILLSBORO	HILLWOOD 3	J	5/01/79	5/08/79	PROV APP	07
	WILSONVILLE	ROBERG ROAD EXT	J	5/01/79	5/09/79	PROV APP	08
	NEMBERG	MARITA PARK	J	5/04/79	5/09/79	PROV APP	05
	ASHLAND	AGAPE SUBD	J	5/07/79	5/09/79	PROV APP	02
	SALEM	REVISED-CARNELIA HEIGHTS SU	J	5/07/79	5/10/79	PROV APP	03
	FLORENCE	BAY BRIDGE COND	J	5/07/79	5/10/79	PROV APP	03
	GRESHAM	BALTZ TERRACE NO 2	J	5/08/79	5/09/79	PROV APP	01
	PORTLAND	N SW MULTNOMAH BLVD	J	5/03/79	5/09/79	PROV APP	01
	HILLSBORO	SE 18TH AVE	J	4/20/79	5/03/79	PROV APP	18
	MCMIHNVILLE	S DAVIS ST	J	4/27/79	5/02/79	PROV APP	05
	GLENEDEN SD	OCEANSIDE PROP	J	4/27/79	5/08/79	PROV APP	11
	OAK LODGE SD	MCCALL HOMES PROJ	K	5/09/79	5/11/79	PROV APP	02
	KLAMATH FALLS	OSHD PORT OF ENTRY	K	4/30/79	5/11/79	PROV APP	11
	WEST LINN	BRIDGEVIEW EST ANNEX 2	K	5/07/79	5/10/79	PROV APP	03
	DEND	CONTRACT NO 10-EXECUTED	K	5/07/79	5/23/79	PROV APP	16
	EUGENE	WHITE OAK HEIGHTS	K	5/07/79	5/22/79	PROV APP	15
	EUGENE	CRENSHAW RD	K	5/07/79	5/22/79	PROV APP	15
	EUGENE	BARYAN SUBDIV	K	5/07/79	5/22/79	PROV APP	15
	EUGENE	MARRACOTT MANOR	K	5/06/79	5/22/79	PROV APP	16
	EUGENE	WILKES PLAT	K	5/06/79	5/22/79	PROV APP	16
	EUGENE	KISKA - KUKUI	K	5/06/79	5/22/79	PROV APP	16
	EUGENE	CANYON VIEW ESTATES	K	5/07/79	5/22/79	PROV APP	15
	EUGENE	NOLAN IND PARK	K	5/07/79	5/22/79	PROV APP	15
	EUGENE	AMBER-ANTON-KERRICK	K	5/06/79	5/22/79	PROV APP	16
	SALEM	SHILOH SUBDIV	K	5/07/79	5/17/79	PROV APP	10

DEPARTMENT OF ENVIRONMENTAL QUALITY

WATER QUALITY DIV. ACTIVITY REPORT

6/11/79 PLAN ACTIONS COMPLETED (Cont.)

MUNICIPAL SOURCES

FOR MAY 1979

ENGINEER COUNTY	LOCATION	PROJECT	REVIEWER	DATE REC	DATE OF ACTION	ACTION	DAYS TO COMPLETE
	UNI SMR AGCY	PACER HILL	K	5/08/79	5/21/79	PROV APP	13
	UNI SMR AGCY	GARYMEADE WOODS	K	5/08/79	5/21/79	PROV APP	13
	CORVALLIS	29TH ST SEWER-TIMBERHILL	K	5/10/79	5/17/79	PROV APP	07
	EUGENE	SOLAR HEIGHTS	K	5/10/79	5/25/79	PROV APP	15
	HONGOE	WILLIAMS SMR PROJ	K	5/07/79	5/22/79	PROV APP	15
	SPRINGFIELD	SUMMERSET ESTATES	K	5/04/79	5/13/79	PROV APP	14
	LEDANON	ANGELEE ADDITION	J	5/04/79	5/09/79	PROV APP	05
	MULTNOMAH CO	DORELIN PARK	J	5/03/79	5/09/79	PROV APP	06
	PRAIRIE CITY	STRAWBERRY ADDITION	J	4/26/79	5/13/79	PROV APP	22
	ROSEBURG	ROBERTSON & LONGTIN	J	4/27/79	5/15/79	PROV APP	13
	ROSEBURG	BIGLEY ON E DOUGLAS ST	J	4/24/79	5/15/79	PROV APP	21
	WINSTON	STARBURST SUBDIV	K	4/23/79	5/15/79	PROV APP	22
	USA	CANYON DRIVE LID	J	5/14/79	5/15/79	PROV APP	21
	USA	PLATT SEWER EXT	J	5/14/79	5/15/79	PROV APP	21
	USA	NORTH DAKOTA ST	J	5/14/79	5/15/79	PROV APP	21
	USA	PREMIER INDUSTRIAL PARK	J	5/14/79	5/15/79	PROV APP	21
	USA	95TH EXT.	J	5/14/79	5/15/79	PROV APP	21
	LOVELL	ANGLESIDE SUBD	J	5/14/79	5/13/79	PROV APP	04
	BAKER	INDUSTRIAL AREA ROAD	J	5/14/79	5/15/79	PROV APP	21
	BAKER	E STREET/11TH TO 13TH	J	5/14/79	5/15/79	PROV APP	21
	BAKER	MIDWAY DRIVE	J	5/14/79	5/15/79	PROV APP	21
	BAKER	WABASH STREET/BTWN 3RD&4TH	J	5/14/79	5/15/79	PROV APP	21
	HEMISTON	ALORA HEIGHTS	K	5/14/79	5/18/79	PROV APP	04
	PENDLETON	RICE ADDITION PHASE A	K	5/14/79	5/18/79	PROV APP	04

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality

May 1979

(Reporting Unit)

(Month and Year)

PLAN ACTIONS COMPLETED

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>INDUSTRIAL WASTE SOURCES (21)</u>			
Yamhill	Church Cannery - St. Paul, Waste water disposal, Irrigation	7-5-78	Approved
Lane	Rosboro Lumber - Springfield Steam condensation, Water recycle	3-14-79	Approved
Lane	Weyerhaeuser - Cottage Grove Caustic Tank Containment	5-3-79	Approved
Linn	Bill Case Hog Farm - Albany Animal Waste	5-7-79	Approved
Linn	John R. Gillette - Scio Hog Waste	5-8-79	Approved
Multnomah	Anodizing, Inc., Portland pH Adjustment	5-8-79	Approved
Polk	Sidney Van Dyke - Salem Storage Lagoon & Hydro-sieve	5-9-79	Approved
Coos	Menasha Corp. - North Bend Modification of outfall piping for Magnetic Flowmeter & Totalizer	5-10-79	Approved
Linn	Larry A. Roth - Albany Animal Waste Storage Lagoon	5-11-79	Approved
Linn	Pugh Century Dairy - Shedd Animal Waste	5-11-79	Approved
Lane	Agripac - Eugene Steam & Brush Peeler	5-14-79	Approved
Linn	G & P Farms - Halsey Holding Tanks, Feeder Pig Operation	5-14-79	Approved
Clatsop	Crown Zellerbach - Clatskanie Landfill Expansion	5-15-79	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality

May 1979

(Reporting Unit)

(Month and Year)

PLAN ACTIONS COMPLETED

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>INDUSTRIAL WASTE SOURCES CONTINUED</u>			
Washington	Leander S. Peters Farm - Forest Grove - Manure storage tank	5-18-79	Approved
Multnomah	Linnton Plywood Assn. Hopper & Conveyor	5-18-79	Approved
Washington	Forest Fiber Products - Forest Grove, Sludge holding pond & Irrigation	5-22-79	Approved
Linn	Teledyne Wah Chang Albany Sludge Dewatering Ponds (Total 10 Acre) and Pipe lines to & from Clarifier	5-23-79	Approved
Baker	Jerry McLean Dairy - Halfway Animal Waste	5-14-79	Approved
Benton	Brand S Plywood - Leading Div. Corvallis, Prentice Dryer Scrubber Water	5-29-79	Approved
Benton	Brand S Plywood, Benton Div. Corvallis, No.1 Moore Dryer Scrubber Water	5-29-79	Approved
Benton	Brand S Plywood, Benton Div. Corvallis, No.3 Moore Dryer Scrubber Water	5-29-79	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality
(Reporting Unit)

May 1979
(Month and Year)

SUMMARY OF WATER PERMIT ACTIONS

	Permit Actions Received				Permit Actions Completed				Permit Actions Pending		Sources Under Permits		Sources Reqr'g Permits	
	Month		Fis. Yr.		Month		Fis. Yr.		*	**	*	**	*	**
	*	**	*	**	*	**	*	**	*	**	*	**	*	**
<u>Municipal</u>														
New	0	0	4	7	0	2	2	5	1	4				
Existing	0	0	0	1	0	0	0	2	0	0				
Renewals	2	2	51	10	8	2	49	12	39	5				
Modifications	1	0	14	0	2	0	18	1	3	0				
Total	3	2	69	18	10	4	69	20	43	9	245	85	246	89
<u>Industrial</u>														
New	1	0	15	15	2	2	17	21	5	3				
Existing	0	0	1	0	0	0	9	0	3	0				
Renewals	5	0	74	15	10	1	87	24	49	2				
Modifications	0	0	4	3	2	0	6	3	3	0				
Total	6	0	94	33	14	3	119	48	61	5	409	133	417	136
<u>Agricultural (Hatcheries, Dairies, etc.)</u>														
New	0	0	3	8	0	0	4	6	1	1				
Existing	0	0	0	0	0	0	0	0	0	0				
Renewals	0	0	1	1	1	0	1	2	0	1				
Modifications	0	0	0	0	0	0	0	0	0	0				
Total	0	0	4	9	1	0	5	8	1	2	62	21	63	22
<u>GRAND TOTALS</u>	9	2	167	60	25	7	167	76	105	16	716	239	726	247

* NPDES Permits
** State Permits

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality
(Reporting Unit)

May 1979
(Month and Year)

PERMIT ACTIONS COMPLETED (32)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Clackamas	Willamette Egg Farms Egg Wash Water	5-7-79	NPDES Permit Renewed
Crook	Ochoco Lumber Company Wood Products	5-7-79	NPDES Permit Renewed
Yamhill	City of Carlton Sewage Disposal	5-7-79	NPDES Permit Renewed
Multnomah	Hercules, Inc. Chemical Plant	5-7-79	NPDES Permit Renewed
Multnomah	Beal Pipe & Tank Industrial Waste	5-7-79	NPDES Permit Renewed
Marion	Del Monte Corporation Food Processing	5-7-79	NPDES Permit Renewed
Clatsop	Pacific Hake Fisheries Fish Processing	5-7-79	NPDES Permit Issued
Clackamas	Portland General Electric Co. Promontory Park - Estacada	5-7-79	State Permit Renewed
Yamhill	City of Amity Addendum #1	5-14-79	NPDES Modification Issued
Hood River	Luhr Jensen & Sons Hood River	5-14-79	State Permit Issued
Clackamas	City of Canby Sewage Disposal	5-14-79	NPDES Permit Renewed
Multnomah	Pacific Power & Light Co. Lincoln Plant	5-14-79	NPDES Permit Renewed
Klamath	Pacific Power & Light Co. J. C. Boyle	5-14-79	NPDES Permit Renewed

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality
(Reporting Unit)

May 1979
(Month and Year)

PERMIT ACTIONS COMPLETED - 32, cont'd

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Hood River	Pacific Power & Light Co. Powerdale	5-14-79	NPDES Permit Renewed
Klamath	Pacific Power & Light Co. Eastside	5-14-79	NPDES Permit Renewed
Clackamas	City of Estacada Sewage Disposal	5-14-79	NPDES Permit Renewed
Curry	Eureka Fisheries Fish Processing	5-14-79	NPDES Permit Issued
Hood River	Mt. Hood Meadows, Ore., Ltd. Sewage Disposal	5-14-79	NPDES Permit Renewed
Coos	Oregon State Dept. of Trans. Sunset Bay State Park	5-17-79	State Permit Renewed
Jackson	Bear Creek Valley Sanitary Authority White City	5-24-79	NPDES Permit Renewed
Lane	Rosboro Lumber Co. Wood Products	5-24-79	NPDES Permit Renewed
Yamhill	Cascade Steel Rolling Mills Secondary Steel Smelting	5-24-79	NPDES Permit Renewed
Deschutes	Oregon Water Wonderland II Sewage Disposal	5-24-79	State Permit Issued
Tillamook	North Tillamook County Sanitary Authority, Sewage Disposal	5-24-79	NPDES Permit Renewed
Coos	City of Myrtle Point Sewage Disposal	5-24-79	NPDES Permit Renewed
Coos	City of Coquille Sewage Disposal	5-24-79	NPDES Permit Renewed

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality
(Reporting Unit)

May 1979
(Month and Year)

PERMIT ACTIONS COMPLETED - 32, cont'd

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Coos	Weyerhaeuser Company Ore-Aqua, Inc. (Domestic)	5-24-79	State Permit Issued
Baker	Cornucopia Placers Gold Mining	5-24-79	State Permit Issued
Multnomah	Stauffer Chemical Company Industrial Waste	5-24-79	State Permit Renewed
Benton	City of Corvallis Taylor WTP Addendum #2	5-24-79	NPDES Modification Issued
Benton	City of Corvallis Rock Creek WTP Addendum #2	5-24-79	NPDES Modification Issued
Marion	City of Aumsville Addendum #1	5-24-79	NPDES Modification Issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste DivisionMay 1979

(Reporting Unit)

(Month and Year)

PLAN ACTIONS COMPLETED (4)

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
Crook	Crook County New Sludge Lagoon Construction Plan	5/1/79	Conditional Approval
Multnomah	The Bait Box New Sludge Composting Site Operational Plan	5/8/79	Letter Authorization Issued
Umatilla	Umatilla Army Depot Existing Landfill Operational Plan	5/10/79	Conditional Approval
Baker	Idaho Power Company New Demolition Site Operational Plan	5/29/79	Letter Authorization Issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

May 1979
(Month and Year)

SUMMARY OF SOLID AND HAZARDOUS WASTE PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sites Under Permits	Sites Reqr'g Permits
	Month	Fis.Yr.	Month	Fis.Yr.			
<u>General Refuse</u>							
New	1	4	1	3	3		
Existing		1	1	4	13	(* 12)	
Renewals	5	35	3	22	16		
Modifications	5	20		15	7		
Total	11	60	5	44	39	169	171
<u>Demolition</u>							
New		1	1	3			
Existing		1			1		
Renewals		2		3			
Modifications		7	1	3	5		
Total	0	11	2	9	6	21	21
<u>Industrial</u>							
New	2	16		15	3	(*)	
Existing		1		2			
Renewals		15	2	23	2		
Modifications	1	2	5	8	1		
Total	3	34	7	48	6	103	103
<u>Sludge Disposal</u>							
New	1	2	2	1			
Existing		1			1	(*)	
Renewals		1		5			
Modifications				1			
Total	1	4	2	7	1	12	13
<u>Hazardous Waste</u>							
New							
Authorizations	19	166	22	165	1		
Renewals							
Modifications							
Total	19	166	22	165	1	1	1
<u>GRAND TOTALS</u>	<u>34</u>	<u>275</u>	<u>37</u>	<u>273</u>	<u>53</u>	<u>306</u>	<u>309</u>

(* Sixteen (16) sites operating under temporary permits until regular permits are issued.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

May 1979
(Month and Year)

PERMIT ACTIONS COMPLETED - 16

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Domestic Waste Facilities (5)</u>			
Lane	Delta Property Company New tire disposal site	4/2/79*	Letter authorization issued
Clatsop	Astoria Landfill Existing disposal site	5/30/79	Permit renewed
Clatsop	Cannon Beach Disposal Site Existing facility	5/30/79	Permit renewed
Clatsop	Seaside Disposal Site Existing facility	5/30/79	Permit renewed
Umatilla	Umatilla Army Depot Existing site	5/30/79	Permit issued
<u>Demolition Waste Facilities (2)</u>			
Multnomah	Don Obrist Landfill Existing facility	5/21/79	Permit amended
Baker	Oxbow Disposal Site New facility	5/29/79	Letter authorization issued
<u>Industrial Waste Facilities (7)</u>			
Benton	Hobin Lumber Company Existing site	5/1/79	Permit renewed
Linn	Willamette Industries, Foster Existing site	5/2/79	Permit amended
Linn	Willamette Industries, Geil's Existing site	5/2/79	Permit amended
Linn	Willamette Industries, Griggs Existing site	5/2/79	Permit amended
Linn	Willamette Industries, Lebanon Existing site	5/2/79	Permit amended

* Not reported last month.

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

May 1979
(Month and Year)

PERMIT ACTIONS COMPLETED - 16, cont'd

County	Name of Source/Project/Site and Type of Same	Date of Action	Action
<u>Industrial Waste Facilities cont'd</u>			
Linn	Willamette Industries, Philomath Existing site	5/2/79	Permit amended
Jackson	Medco, Rogue River Existing site	5/7/79	Permit renewed
<u>Sludge Disposal Facilities (2)</u>			
Harney	Oard's Sludge Site New sludge spreading area	5/4/79	Permit issued
Multnomah	The Bait Box New composting facility	5/8/79	Letter authorization issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

May 1979
(Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-NUCLEAR SYSTEMS, GILLIAM CO.

Date	Type	Waste Description	Source	Quantity	
				Present	Future
Disposal Requests Granted (22)					
Oregon (6)					
4	Paint stripper sludge consisting of phenol, orthocresole, butyl carbitol, perchlorethylene and methylene chloride	Electronic device manufacturer	51 drums	41 drums/yr.	
9	Freight damage epoxy primer and solvents	Transportation Company	73-1 gal. cans	none	
11	Paint sludge	Paint formulator		120 drums/yr.	
11	PCB capacitors	Paper Company	10 units	none	
15	Old laboratory chemicals	Health Clinic	1 sm. box	none	
15	Old phenolic adhesives	Chemical Company	200 gals.	none	
Washington (9)					
4	Spent alkylation and hydrorefining catalyst	Oil refinery	490 tons	490 tons/yr.	
3	Old pesticides	School	30 gals.	none	
7	Unusable herbicide formulations containing 2,4ST.	Wood product Company	1,250 gals.	none	
8	Old pesticides	General public	1,500 lbs.	none	
8	Spent Co-Mo catalyst and paint material	Oil refinery	5 drums	none	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

May 1979
(Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-NUCLEAR SYSTEMS, GILLIAM CO.

Date	Type	Source	Quantity	
			Present	Future
Washington cont'd				
8	PCB capacitors	PUD	1 unit	none
16	Spent chemical cleaning solution containing NH ₃ , EDTA, EDA, thiourea, ammonium persulfate, etc.	Federal agency		400,000 gals./yr.
18	Aqueous spent chemical cleaning solutions	Cleaning service	18,000 gals.	none
23	Vanillin still bottoms and materials contaminated with CuSO ₄	Chemical Company		79 tons/month
Alaska (2)				
24	PCB capacitors, spill cleanup debris, etc.	Federal agency	30,000 lbs.	none
30	PCB transformers, PCB contaminated articles, spill cleanup debris, etc.	Oil refinery	14 drums	9,000 lbs./yr.
Hawaii (1)				
22	Various old laboratory chemicals	Federal agency	56,350 lbs.	none
British Columbia (2)				
17	PCB transformers	Government agency	2 units	none
17	PCB transformers	Government agency	1 unit	none
Others (2)				
10	Various pesticide wastes	Federal agency	200,000 lbs.	none
22	PCB capacitors	City government	2 drums	none

<u>TOTALS</u>	<u>LAST</u>	<u>PRESENT</u>
Settlement Action	18	16
Preliminary Issues	8	7
Discovery	6	5
To be Scheduled	4	5
To be Rescheduled	0	0
Set for Hearing	1	0
Briefing	1	1
Decision Due	4	6
Decision Out	0	0
Appeal to Commission	3	4
Appeal to Court	0	1
Transcript	0	0
Finished	2	2
Commission Affirmed Decision	<u>1</u>	<u>0</u>
GRAND TOTAL	48	47

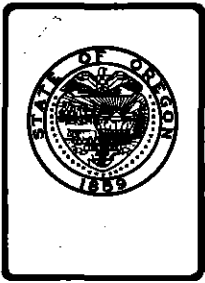
KEY

ACD Air Contaminant Discharge Permit
AQ Air Quality
AQ-SNCR-76-178 A violation involving air quality occurring in the Salem/North Coast Region in the year 1976; the 178th enforcement action in that region for the year.
Cor Cordes
CR Central Region
Dec Date The date of either a proposed decision of a hearing officer or a decision by the Commission.
\$ Civil Penalty Amount
ER Eastern Region
Fld Brn Field burning incident
Hrngs The Hearings Section
Hrng Rfrl The date when the enforcement and compliance unit requests the hearings unit to schedule a hearing.
Hrng Rqst The date the agency receives a request for hearing.
LQ/SW Land Quality/Solid Waste
McS McSwain
MWV The Mid-Willamette Valley Region
NP Noise Pollution
NPDES National Pollutant Discharge Elimination System wastewater discharge permit
P At the beginning of a case number means litigation over a permit or its conditions.
PR/NWR Portland Region/Northwest Region
PNCR Portland/North Coast Region
Prtys All parties involved
Rem Order Remedial Action Order
Resp Code The source of the next expected activity on the case.
SNCR Salem/North Coast Region (now MWV)
SSD Subsurface Sewage Disposal
SWR Southwest Region
T At the beginning of a case number means litigation over a tax credit matter.
Trancr Transcript being made.
Underlined Different status or new case since last contested case log.

DEQ/EQC Contested Case Log

<u>Pet/Resp Name</u>	<u>Hrng Rqst</u>	<u>Hrng Rfrrl</u>	<u>DEQ or Atty</u>	<u>Hrng Offcr</u>	<u>Hrng Date</u>	<u>Resp Code</u>	<u>Dec Date</u>	<u>Case Type & No.</u>	<u>Case Status</u>
Davis et al	5/75	5/75	Atty	McS	5/76	Resp	6/78	12 SSD Permits	Settlement Action
Paulson	5/75	5/75	Atty	McS		Resp		1 SSD Permit	Settlement Action
Faydrex, Inc.	5/75	5/75	Atty	McS	11/77	Resp		64 SSD Permits	Resp's brief filed
Mead and Johns et al	5/75	5/75	Atty	McS		All		3 SSD Permits	Preliminary Issues
PGE (Harborton)	2/76	2/76	Atty	LZ		Hrngs		ACD Permit Denial	Appeal to EQC
Ellsworth	10/76	10/76	Atty	McS		Resp		\$10,000 WQ-PR-76-196	Settlement Action
Ellsworth	10/76	10/76	Atty	McS		Resp		WQ-PR-ENF-76-48	Settlement Action
Silbernagel	10/76	10/77	Atty	Cor		EQC		AQ-MWR-76-202-\$400	Settlement Action
Jensen	11/76	11/76	Atty	Cor	12/77	Prtys	6/78	\$1500 Fld Brn AQ-SNCR-76-232	Settlement Action
Mignot	11/76	11/76	DEQ	LZ	2/77	EQC	2/77	\$400 SW-SWR-288-76	Appeal to Comm
Jones	4/77	7/77	DEQ	Cor	6/9/78	Hrngs		SSD Permit SS-SWR-77-57	Appeal to Comm
Sundown et al	5/77	6/77	Atty	LZ		Dept		\$11,000 Total WQ Viol SNCR	Settlement Action
Wright	5/77	5/77	Atty	LZ		Hrgs		\$75 SS-MWR-77-99	On Appeal to Court of Appeals
Magness	7/77	7/77	DEQ	Cor	11/77	Hrngs		\$1150 Total SS-SWR-77-142	Decision Due
Southern Pacific Trans	7/77	7/77	Atty	Cor		Prtys		\$500 NP-SNCR-77-154	Settlement Action
Taylor, D.	8/77	10/77	DEQ	McS	4/78	Dept		\$250 SS-PR-77-188	Settlement Action
Grants Pass Irrig	9/77	9/77	Atty	LZ		Prtys		\$10,000 WQ-SWR-77-195	Discovery
Pohll	9/77	12/77	Atty	Cor	3/30/78	Hrngs		SSD Permit App	Decision Due
Califf	10/77	10/77	DEQ	Cor	4/26/78	Prtys		Rem Order SS-PR-77-225	Settlement Action
Zorich	10/77	10/77	Atty	Cor		Prtys		\$100 NP-SNCR-173	Settlement Action
Powell	11/77	11/77	Atty	Cor		Hrngs		\$10,000 Fld Brn AQ-MWR-77-241	Preliminary Issues
Wah-Chang	12/77	12/77	Atty	McS		Prtys		AGB-Permit-Conditions	Settlement Action
Barrett & Sons, Inc.	12/77	2/78	DEQ			Resp		\$500 WQ-PR-77-307	Settlement Action
Carl F. Jensen	12/77	1/78	Atty	LZ		Prtys		\$18,600 AQ-MWR-77-321 Fld Brn	Settlement Action
Carl F. Jensen/ Elmer Klopfenstien	12/77	1/78	Atty	LZ		Prtys		\$1200 AQ-SNCR-77-320 Fld Brn	Decision Due
Steckley	12/77	12/77	Atty	McS	6/9/78	EQC		\$200 AQ-MWR-77-298 Fld Brn	Appeal to Comm
Wah Chang	1/78	2/78	Atty	Cor		Prtys		\$5500 WQ-MWR-77-334	Settlement Action
Hawkins	3/78	3/78	Atty	LZ		Dept		\$5000 AQ-PR-77-315	Preliminary Issues
Hawkins Timber	3/78	3/78	Atty	LZ		Dept		\$5000 AQ-PR-77-314	Preliminary Issues
Wah Chang	4/78	4/78	Atty	McS		Prtys		NPDES Permit (Modification)	Preliminary Issues
Wah Chang	11/78	12/78	Atty	McS		Prtys		P-WQ-WVR-78-07	Preliminary Issues
Stimpson	5/78		Atty	LZ		Hrgs		Tax Credit Cert. T-AQ-PR-78-01	To Be Scheduled
Vogt	6/78	6/78	Hrgs	Cor	11/8/78	Dept		\$250 Civil Penalty SS-SWR-78-70	Decision Due
Hogue	7/78		Atty			Dept		P-SS-SWR-78	Preliminary Issues
Mock (dba B & M)	8/78	8/78	DEQ	Cor	11/1/78	Hrngs		SSD License	Decision Due
Welch	10/78	10/78	Atty	Cor		Dept		P-SS-CR-78-134	Discovery
Reeve	10/78		Atty	Dept		Hrngs		P-SS-CR-78-132 & 133	Discovery
Bierly	12/78	12/78	DEQ	LZ		Resp		\$700 AQ-WVR-78-144	Settlement Action
Georgia-Pacific	1/79	1/78	DEQ	LZ		Dept		\$1525 AQ-NWR-78-159	Settlement Action
Glaser	1/79	1/79	DEQ	LZ		Prtys		\$2200 AQ-WVR-78-147	To be Scheduled
Hatley	1/79	2/79	DEQ	LZ		Prtys		\$3250 AQ-WVR-78-157	To be Scheduled
Roberts	2/79	3/79	DEQ	LZ	5/23/79	Hrgs		P-SS-SWR-79-01	DECISION due
Wah Chang	2/79	2/79	Atty			Prtys		\$3500 WQ-WVR-78-187	Settlement Action
TEN EYCK	12/78		DEQ			Prtys		P-SS-ER-78-06	Discovery
Loren Raymond	4/79	4/79	Atty	LZ		Dept		P-SS-ER-79-02	Discovery
J. R. Simplot Co.	4/79	4/79	Atty	LZ		Hrgs		\$2500 WQ-ER-79-27	To Be Scheduled
Martin, Leona	5/79	5/79	DEQ	LZ		Hrgs		\$250 04-SS-SWR-79-49	To Be Scheduled

M2608.A:tf



Environmental Quality Commission

POST OFFICE BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item C, June 29, 1979, EQC Meeting

TAX CREDIT APPLICATIONS

Director's Recommendation

It is recommended that the Commission act on the attached requests for tax credit action as follows:

1. Issue Pollution Control Facility Certificates to the following applicants:

T-1017	Menasha Corporation
T-1032	Coverall Uniform Supply Co., Inc.
T-1033	Willamette Industries, Inc.
T-1073	Menasha Corporation
T-1074	Menasha Corporation
T-1083	Weyerhaeuser Company
T-1085	Willamette Industries, Inc.

2. Issue an order denying Rough and Ready Lumber Company's request for Preliminary Certification for Tax Credit for the dry kiln including heating coils, related equipment and labor at their plant in Cave Junction, Oregon. Also, be informed of the Department's intent to issue Preliminary Certification for Tax Credit for the Company's condensate return system, steam heat dump system and related labor at the same plant.

WILLIAM H. YOUNG

MJDowns:cs
229-6485
6/15/79
Attachments



Contains
Recycled
Materials

Proposed June 1979 Totals

Air Quality	\$ 321,551
Water Quality	4,635,961
Solid Waste	0
Noise	<u>0</u>
Total	\$ 4,957,512

Calendar Year Totals to Date

Air Quality	\$ 1,631,543
Water Quality	1,379,512
Solid Waste	424,915
Noise	<u>84,176</u>
Total	\$ 3,520,146

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Menasha Corporation
Wood Fibre Division
P. O. Box 5489
Eugene, OR 97405

The applicant owns and operates a wood flour manufacturing plant at Grants Pass.

Application was made for tax credit for an air pollution control facility.

2. Description of Claimed Facility

The facility described in this application is a baghouse to control emissions from a material handling cyclone.

Request for Preliminary Certification for Tax Credit was made on February 22, 1978, and approved on March 23, 1978.

Construction was initiated on the claimed facility on June 22, 1978, completed on July 27, 1978, and the facility was placed into operation on July 28, 1978.

Facility Cost: \$ 13,597 (Accountant's Certification was provided).

3. Evaluation of Application

Prior to the installation of this baghouse, the cyclone emissions exceeded the Department's opacity limits. After installation, the limits were met.

4. Summation

- A. Facility was constructed after receiving approval to construct and preliminary certification issued pursuant to ORS 468.175.
- B. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1) (a).
- C. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling or reducing air pollution.

- D. The facility was required by the Department of Environmental Quality and is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- E. The primary purpose of this baghouse is air pollution control and 100% of the cost is allocable to pollution control.

5. Director's Recommendation

Based upon the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$ 13,597 with 80% or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-1017R.

FASkirvin:kr
(503) 229-6414
May 30, 1979

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Coverall Uniform Supply Co., Inc.
2522 N.E. Union Avenue
Portland, Oregon 97212

The applicant owns and operates a garment rental and laundry facility in Portland, Oregon.

Application was made for tax credit for water pollution control facility.

2. Description of Claimed Facility

The claimed facility consists of a screen, a heat exchanger, and a concrete sump. Laundry waste water is conveyed through a fine mesh vibrating screen where fibers and other solids are removed. Screened wastes then flow to a three celled concrete oil separator which operates in conjunction with a heat exchanger. A portion of the oil in the waste water floats to the top of the first cell in the sump. Effluent from this cell passes through a heat exchanger which cools the water and aids in additional oil removal in the third cell. The sump is periodically pumped by a private vendor for oil reclamation.

Request for Preliminary Certification for Tax Credit was made January, 1978 and approved March, 1978. Construction was initiated on the claimed facility in January, 1978, completed in June, 1978, and placed into operation in June, 1978.

Facility Cost: \$37,033. (Certified Public Accountants statement was provided.)

3. Evaluation

Installation of the claimed facility has enabled Coverall Uniform Supply to reduce its pollutant discharge to the City of Portland's sewerage system. The oil discharge has been reduced approximately 55% while the suspended solids discharge has been cut 60%. The reduced pollutant discharge has resulted in the City of Portland lowering its extra strength sewer charge.

4. Summation

- A. Facility was constructed after receiving approval to construct and Preliminary Certification issued pursuant to ORS 468.175.
- B. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).
- C. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling and reducing water pollution.
- D. The facility was required by the Department of Environmental Quality and is necessary to satisfy the intent and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- E. Applicant claims 100% of costs allocable to pollution control.

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate be issued for the facility claimed in Application T-1032, such Certificate to bear the actual cost of \$37,033 with 80% or more allocable to pollution control.

CKA:nf

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Willamette Industries, Inc.
Western Kraft Paper Group
3800 First National Bank Tower
Portland, OR 97201

The applicant owns and operates an unbleached Kraft pulp and paper mill at Albany.

Application was made for tax credit for an air pollution control facility.

2. Description of Claimed Facility

The facility described in this application is a lime mud filter system installed on the No. 2 lime kiln. The facility cost consists of the following:

a. Electrical	\$ 5,872.21
b. Controls	3,945.87
c. Pipes, valves & pumps	16,682.28
d. Mud filter	61,478.03
e. Mud conveyor	10,381.86
	<u>\$98,360.25</u>

Request for Preliminary Certification for Tax Credit was made on March 6, 1978, and approved on May 9, 1978.

Construction was initiated on the claimed facility on May 1, 1978, completed on May 14, 1978, and the facility was placed into operation on May 14, 1978.

Facility Cost: \$98,360.25 (Accountant's Certification was provided).

3. Evaluation of Application

The Western Kraft lime kilns were unable to meet the 20 ppm TRS limit which is required by the Kraft mill regulation and is incorporated into their permit. To achieve compliance with this limit they installed the new lime mud filter which had 2.5 times the area of the old one. It has been demonstrated that the sulfides in the lime mud are oxidized on a lime mud filter which has sufficient area and are not emitted as TRS.

The monitoring that the company has done shows that the Number 2 lime kiln is in compliance with the 20 ppm TRS limit.

The company is planning on installing the old lime mud filter on the No. 1 lime kiln to help reduce TRS from it.

There is no value to the compounds that are retained in the system. Therefore, the entire cost of the facility is allocable to air pollution tax credit.

4. Summation

- A. Facility was constructed after application for preliminary certification had been made pursuant to ORS 468.175.
- B. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).
- C. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling or reducing air pollution.
- D. The facility was required by the Department and is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- E. There is no economic benefit received from the claimed facility. Therefore, 80% or more of the cost is allocable to air pollution control.

5. Director's Recommendation

Based upon the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$98,360.25 with 80% or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-1033R.

F.A.Skirvin:jo
(503) 229-6414
6/12/79

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Menasha Corporation
Paperboard Division
Box 329
North Bend, OR 97459

The applicant owns and operates a sulfite pulp and paper mill at North Bend.

Application was made for tax credit for an air pollution control facility.

2. Description of Claimed Facility

The facility described in this application is a caustic addition system for the spent liquor incinerator. The facility cost consists of the following:

Tank	\$13,232
Pumps and Piping	4,684
Electrical Equipment	1,073
Installation and Engineering	<u>8,499</u>
	\$27,488

Request for Preliminary Certification for Tax Credit was made on November 15, 1977, and approved on January 24, 1978.

Construction was initiated on the claimed facility in February 1978, completed on April 28, 1978, and the facility was placed into operation on March 9, 1978.

Facility Cost: \$27,488 (Accountant's Certification was provided).

3. Evaluation of Application

Before the installation of this system the Department had received odor complaints and the spent liquor incinerator was not in compliance with the Total Reduced Sulfur limits of the permit. The installation of the caustic addition system has reduced Total Reduced Sulfur emissions to levels which are below the permit limits. The number of odor complaints was also reduced.

The facility has been inspected by the Department and it is operating satisfactorily.

The entire cost of the system is allocable to air pollution control, since there is no income received from the installation of the system.

4. Summation

- A. Facility was constructed after receiving approval to construct and preliminary certification issued pursuant to ORS 468.175.
- B. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1) (a).
- C. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling or reducing air pollution.
- D. The facility was required by the Department and is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- E. The amount allocable to air pollution control is 80 percent or more, since no income is generated by the system.

5. Director's Recommendation

Based upon the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$27,488 with 80% or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-1073.

FASkirvin:jl
(503) 229-6414
June 6, 1979

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Menasha Corporation
Paperboard Division
Box 329
North Bend, OR 97459

The applicant owns and operates a sulfite pulp and paper mill at North Bend.

Application was made for tax credit for an air pollution control facility.

2. Description of Claimed Facility

The facility described in this application is a scrubber system for the No. 2 hog fuel boiler. The cost of the facility consists of the following:

Scrubbers	\$160,378
Electrical Motors	1,202
Pumps and Piping	8,420
Electrical Equipment	4,465
Foundation	1,234
Installation	<u>6,407</u>
	\$182,106

Request for Preliminary Certification for Tax Credit was made on August 28, 1977, and approved on November 2, 1977.

Construction was initiated on the claimed facility in September, 1977, completed on August 15, 1978, and the facility was placed into operation on August 16, 1978.

Facility Cost: \$182,106 (Accountant's Certification was provided).

3. Evaluation of Application

The facility was installed to bring the No. 2 hog fuel boiler into compliance with the permit and regulatory limits. Prior to the installation of the facility the company had tried to upgrade the multiclone collector to achieve compliance. Although this reduced emissions it did not bring the boiler into compliance. The scrubber was installed in the gas stream after the multiclone.

The facility has been tested and was found to be in compliance with the Department's regulations.

The entire cost of the facility is allocable to air pollution control, since there is no economic value to the material collected.

4. Summation

- A. Facility was constructed after receiving approval to construct and preliminary certification issued pursuant to ORS 468.175.
- B. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).
- C. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling or reducing air pollution.
- D. The facility was required by the Department and is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- E. The amount allocable to air pollution control is 80 percent or more since no income is generated by the facility.

5. Director's Recommendation

Based upon the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$182,106 with 80% or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-1074.

FASKirvin:jl
(503) 229-6414
June 6, 1979

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Weyerhaeuser Company
Willamette Region
P.O. Box 275
Springfield, Oregon 97401

The applicant owns and operated a plant in Springfield producing paperboard, lumber, plywood, particleboard, ply-veneer and prestologs.

Application was made for tax credit for water pollution control facility.

2. Description of Claimed Facility

The Claimed Facility consists of:

- a. Vapor recompression evaporator and compressor
- b. Steam stripper
- c. Condensate collection system

Electrical power supply, systems, controls, piping, tanks, pumps, instrumentation and other auxiliary equipment are included.

Notice of Intent to Construct was approved by Department of Environmental Quality letter of July 31, 1975. Preliminary Certification for Tax Credit was not required. The Department was informed of this project by Weyerhaeuser letter, December 2, 1974. Notice of Intent to Construct form was later submitted, April 14, 1975.

Construction was initiated on the Claimed Facility in March of 1975. The facility was completed and placed into operation April 1, 1976.

Facility Cost: \$4,311,473 (Certified Public Accountant's statement was provided)

3. Evaluation of Application

The applicant claims that the equivalent of 20,000 lbs./day of BOD is removed by the claimed facility from evaporator condensate to be burned in the lime kiln. This 20,000 lbs. BOD is not reflected in the effluent to the river, but is removed from the waste water treatment system. A reduction of 600 lbs./day BOD to the river is realized even though pulp production had increased 160 tons/day. BOD to the river has decreased from 2.61 lbs. BOD/ton of pulp to 1.81 lbs. BOD/ton of pulp in the 1978 summer season. These figures were determined from monitoring reports. The applicant is thus in compliance with permit limits.

4. Summation

- A. Facility was constructed after receiving approval to construct issued pursuant to ORS 468.175.
- B. Facility was constructed on or after January 1, 1967 as required by ORS 468.165(1)(a).
- C. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling and reducing water pollution.
- D. The facility was required by the Department of Environmental Quality and is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that Chapter.
- E. 100% of the facility cost is claimed allocable to pollution control. The facility is solely for the purpose of Water Pollution Control. A small amount of income is realized from the recovery and sale of raw turpentine but is negligible as compared to investment and operating costs.

5. Director's Recommendation

Based upon the findings in the Summation it is recommended that a Pollution Control Facility Certificate be issued for the facility claimed in Application T-1083, such certificate to bear the actual cost of \$4,311,473, with 80% or more of the cost allocable to pollution control.

William D. Leshner:nf
229-5318
June 19, 1979

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITYTAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Willamette Industries, Inc.
Western Kraft Paper Group
Albany Mill Division
3800 First National Bank Tower
Portland, OR 97201

The applicant owns and operates a pulp and paper mill that manufactures linerboard, bag paper and medium in Albany, Oregon.

Application was made for tax credit for water pollution control facility.

2. Description of Claimed Facility

The claimed facility, a cooling water recirculation system. Consists of:

- a. Cooling Tower, Marley Model 459-202 (4,000 gpm, 110°F. to 81°F.) with foundation and spillway to pond.
- b. Piping, Valve, Fittings and Pumps.
- c. Electrical Power & Controls.
- d. Screen (revolving drum).

Request for Preliminary Certification for Tax Credit was made December 9, 1976 and approved December 15, 1976. Construction was initiated on the claimed facility in January, 1977, completed in June, 1977, and placed into operation in July, 1977.

Facilities Cost: \$287,455. (Certified Public Accountant's statement was provided.)

3. Evaluation

The cooling tower recirculation system was installed to compensate for 2 M.G.D. additional cooling water resulting from plant expansion and increase in production. The additional 2 M.G.D. waste water would have increased the hydraulic load on the treatment system thereby reducing retention time in the aeration basin and treatment efficiency. Monitoring reports show an actual reduction of roughly 0.5 M.G.D. to the river. The applicant is currently in compliance with the NPDES waste discharge permit.

4. Summation

- A. Facility was constructed after receiving approval to construct and Preliminary Certificate issued pursuant to ORS 468.175.
- B. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).
- C. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling or reducing water pollution.
- D. The facility was required by the Department of Environmental Quality and is necessary to satisfy the intent and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- E. Applicant claims 100% of costs allocable to pollution control.

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate be issued for the facility claimed in Application T 1085, such Certificate to bear the actual cost of \$287,455 with 80% or more allocable to pollution control.

WDL:nf

STATE OF OREGON - DEPARTMENT OF ENVIRONMENTAL QUALITY
Request for Commission Order to Deny a
Preliminary Certification for Tax Relief

1. Applicant

Rough and Ready Lumber Company
Cave Junction, Oregon 97523

The applicant owns and operates a lumber mill at Cave Junction, Oregon.

Application was made for preliminary certification for a solid waste pollution control facility.

2. Description of Claimed Facility

The facility described in this application is a waste wood (sawdust) fired boiler and dry kilns.

The facility was placed in operation May 14, 1979.

The estimated cost of the facility is:

a. Boiler	\$440,000
b. Kilns	300,000

3. Evaluation of Application

At the January 26, 1979, March 30, 1979 and April 27, 1979 meetings, the Commission considered the request from Rough and Ready Lumber Company for approval of Preliminary Certification for dry kilns. The request for approval was denied. By letter dated May 9, 1979, distributed to all members of the Commission, the Company argued their case further and again asked for approval of portions of the dry kilns.

The Department would like to reaffirm its previous findings that the installation of dry kilns does not meet the statutory requirement for direct utilization of solid waste. (See attached report.)

In a related matter, the Publishers Paper turbine generator (T-1022), Publishers has since requested an amendment of the approved cost from \$2,547,911 to \$2,321,768. The difference (\$226,143) is the cost of the heating coils referred to in the Rough and Ready letter of May 9, 1979. Initially, Publishers had erroneously identified this equipment to the Department's staff as a part of the superheater coils system. When Publishers discovered the error, they requested the tax credit reduction.

For the Commission's information, the Department recently received two other requests for approval of dry kilns for tax credit. After the Department's staff had discussed the pertinent statutory requirements, the applicants decided to withdraw their requests from further processing.

Rough and Ready Lumber Co.
June 11, 1979
Page 2

4. Summation

The Department has previously found (see attached report) and would like to reaffirm that the claimed facility does not meet the statutory requirements for direct utilization of solid waste.

The Department has determined that the installation of the dry kiln including the coils does not comply with the applicable provisions of ORS Chapter 454, 459, 467, or 468 and the applicable rules or standards pursuant thereto.

5. Director's Recommendation

It is proposed that the Department approve for Preliminary Certification the condensate return system and the steam heat dump system and the related labor (\$41,876.86). Based upon the findings in the summation, it is recommended that the Commission issue an Order denying the applicant's request for Preliminary Certification for the dry kiln including heating coils, related equipment and labor (\$60,184.14).

Milan Synak:fw
229-6015
June 11, 1979
Attachments (2)

1. Letter from Richard W. Miller dated May 9, 1979
2. Staff Report, January 26, 1979 EQC Meeting

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Preliminary Certification for Tax Relief Review Report

1. Applicant

Rough and Ready Lumber Company
Cave Junction, OR 97523

The applicant owns and operates a lumber mill at Cave Junction, Oregon.

Application was made for preliminary certification for a solid waste pollution control facility.

2. Description of Claimed Facility

The facility described in this application is a waste wood (sawdust) fired boiler and dry kilns.

It is estimated the facility will be placed in operation February 1979.

The estimated cost of the facility is:

- | | | |
|----|--------|-----------|
| a. | Boiler | \$550.000 |
| b. | Kilns | \$300.000 |

3. Evaluation of Application

On July 28, 1978, the Rough and Ready Company applied for Preliminary Certification for Tax Credit for the above facilities. On November 30, 1978 the Department approved the application for the boiler only. On December 15, 1978 the company appeared before the Commission appealing the denial of the kilns. At the request of the Commission the matter was postponed. Subsequently, the Department received a letter from the company (December 18, 1978), demanding a hearing before the Commission. The company verbally agreed that today's discussion will serve their purposes. Finally, in a January 5, 1979 letter to Chairman Richards, the company argues that the dry kiln system is comparable to the recently approved Publisher's Paper generator facility at Newberg.

The Pollution control Tax Credit Law provides credit for solid waste facilities if:

468.165(1)(c)(A) "The substantial purpose of the facility is to utilize material that would otherwise be solid waste as defined---

468.155(2) "Facility does not include---any solid waste facility or portion or portions thereof, whose substantial purpose is not for the direct utilization of materials as described in 468.165(1)(c)(A)."

The claimed boiler will utilize solid waste to generate steam and is clearly eligible. The steam will be used for drying of green lumber in the kilns.

The substantial purpose of dry kilns as such is not utilization of solid waste, but simply the drying of lumber. Therefore, they fail to meet the requirements of the above statutes. The Publishers Paper generator system also fails this requirement, but is eligible under the following section:

468.155(1)(d) "---'solid waste facility' shall include subsequent additions made to an already certified facility---which will increase the production or recovery of useful materials or energy over the amount being produced or recovered by the original facility, whether or not the materials or energy produced or recovered are similar to those of the original facility."

The generator meets this test since it converts energy from the boiler to a more useful form (electricity). It is argued by the company that the dry kilns also convert energy. In fact the kilns do not convert, energy to a more useful form as a generator does. It is the Departments position that the kilns are primarily an energy consumer and the end point in the energy production/consumption cycle. The Department believes it was not legislative intent to grant tax credits for such facilities. Approval would set a precedent which could open the door to tax credits too widely.

4. Summation

The Department has determined that the installation of dry kilns does not comply with the applicable provisions of ORS Chapter 454, 459, 467, or 468 and the applicable rules or standards pursuant thereto.

5. Director's Recommendation

It is recommended that the Commission deny the applicant's request for Preliminary Certification for dry kilns.

MS:mt

229-5913

January 8, 1978

Attachment (1) Company's letter.

DUFFY, GEORGESON, KEKEL & BENNER

1404 STANDARD PLAZA
 PORTLAND, OREGON 97204
 TELEPHONE 226-371

CHARLES P. DUFFY
 DONALD J. GEORGESON
 DAVID A. KEKEL
 RAY R. BENNER
 PATRICK H. JENSEN
 PHILIP N. JONES
 RICHARD W. MILLER

COPY
 May 9, 1976

WALDEN STOUT
 OF COUNSEL

Dr. Grace Thinnney
 1107 N.W. 36th Street
 Corvallis, Or. 97330

RE: Rough & Ready Lumber Company -- Application for
 Pollution Control Facility Tax Credit

Dear Dr. Thinnney:

On April 27, Lewis Krauss and I appeared before the Environmental Quality Commission, seeking review of the Department of Environmental Quality's decision to deny preliminary certification for certain heating equipment located within three dry kilns now being constructed by Rough and Ready Lumber Company. After our presentation, the Department's decision was not reviewed by the Commission. When I asked Mr. Ernest Schmidt the reason, he informed me that the Commission had passed upon the matter at its March meeting. Mr. Schmidt then discovered that the Department had inadvertently neglected to send us notice that the matter was up for consideration at that time. After Mr. Schmidt brought this matter to the attention of Chairman Richards, it was agreed that the Commission would review the matter at its May meeting. Mr. Richards advised me to incorporate into a letter our presentation at the April 27th meeting, and attempt to develop further the analogy between this equipment and the turbine generator. That is the purpose of this letter. Also enclosed are the additional exhibits we presented at that time.

Rough & Ready has a substantial solid waste problem. We have presented the Commission with a history of this problem, and have furnished aerial photographs of the immense pile of solid waste at the plant site. Inclosed is a graph showing the net additions to the company's solid waste site since 1975. There are now approximately 96,000 cubic yards, or 32,400 tons, of waste material at this site.

On July 28th of last year, Rough & Ready Lumber Company sought preliminary certification of a boiler and three dry kilns for a pollution control facility tax credit. The total cost of the dry kilns in the application was \$300,000. The preliminary certification of the dry kilns was denied by the DEQ.

At a meeting on December 15 of last year, the company argued for a reversal of the Department's decision and furnished the Commission with a written history of the company's solid waste problems, including its unsuccessful attempts to rid itself of a substantial amount of solid waste material (copy enclosed). In order to review the material we presented, the Commission postponed its decision on the issue until January. Meanwhile, the preliminary certification was again considered by the Department, and again denied on January 9, 1979. In its review report, the Department stated that the substantial purpose of the facility was not the direct utilization of the solid waste. In response to our argument that the kilns were akin to a turbine generator approved for Publishers Paper, the Department stated that the kilns do not convert energy to a more useful form as a generator does, but are the end point in the energy production/consumption cycle. Further, the Department felt that "Approval would set a precedent which would open the door to tax credits too widely."

The Department's decision was affirmed by the Commission on January 26 of this year. The Commission, however, invited the company to reapply for equipment in the dry kiln which was involved in the conversion of steam energy to heat energy.

On February 22, in accordance with the Commission's request, the company applied for the following equipment:

Kiln heating coils, valves, traps, feed and
drain piping, hangers, steam main, condensate
return pump station, pipe and insulation.

The cost involved in the application for this equipment was approximately \$88,500.

On March 15, the Department denied preliminary certification of this equipment on the grounds that it "actually constitutes the 'dry kiln' and the kilns do not meet the statutory requirement for direct utilization of solid waste."

Enclosed is a schematic drawing of the equipment listed on our most recent application. The cost of the kilns first applied for was \$300,000. The cost of this equipment is approximately \$88,500, or 30% of the cost of the facilities listed on the original application. The Department's statement that this equipment "actually constitutes the dry kiln," therefore, is not accurate.

This equipment is that which has as its end product heat energy. The equipment eliminated from this application, but that was listed on the previous one, is that which is essential to using this heat energy to dry lumber.

Dr. James Thinney
May 9, 1979
Page 3

To briefly explain this drawing, the steam is produced in the boiler and is passed through an insulated steam main to the dry kilns. The entry of the steam into the dry kilns is regulated by diaphragm valves. Once in the kilns, the steam is passed through heat condensing coils which converts the steam into heat energy. As the steam cools, it condenses into water; the removal of this condensate from the kiln is regulated by steam traps. The condensate flows to a condensate return pumping station, which pumps it back to the feed water tank within the boiler.

The ultimate product of useful energy that comes out of this process is heat to dry lumber. ORS 468.155(c) provides that certification may be granted to a solid waste facility if "the substantial purpose of the facility is to utilize material that would otherwise be solid waste as defined in ORS 459.005 by" among other things the "use of materials for their heat content." This equipment is essential to the use of the solid waste material for its heat content. The recovery of heat will be solely from the utilization of material that is considered solid waste under Oregon law.

Rough & Ready built the dry kilns for the substantial purpose of utilizing solid waste. While we can accept the Commission's reluctance to approve certification of the kilns as a whole, since there has been no previous certification of such a facility and the Commission must be cautious in allowing these tax credits, we think that the equipment applied for here is definitely within the stage of energy production, as opposed to energy consumption. At this stage and with this equipment, energy is being produced.

In several respects, we can draw a strong analogy to the certification of a turbine generator for Publisher's Paper. First, the end result of the generator is electrical energy. A turbine generator operates by transforming steam energy into kinetic energy by means of expansion through nozzles; the kinetic energy of the resulting jet is in turn converted into mechanical work when it strikes moving blades mounted on a rotor, producing shaft horsepower. The horsepower then runs the generator, which produces electricity. The end result of the equipment we are applying for is heat energy. In a much simpler process, as explained above, steam energy is transformed into heat energy when the steam passes through heating coils. Both the turbine generator and the heating equipment produce energy. There is nothing within ORS 468.165(c) (cited above) or ORS 468.155(l)(a) (cited below), that indicates either facility is more or less qualified than the other for receiving a tax credit.

Second, the electrical energy produced by the turbine is being consumed at Publisher's Paper plant. In its application for certification of the turbine generator, Publishers Paper states

Dr. Grace Lindsey
May 9, 1979
Page 4

The increase in boiler steam production to supply both electrical and thermal energy has resulted in the use of approximately 100 units/day more waste wood and has reduced the demand for outside electrical energy (indirect pollution benefits) by approximately 160,000 KW hr./day.

The heat energy generated by our equipment is likewise being consumed at our plant.

Third, in the turbine facility that was granted a tax credit, the following items were approved for the credit: heating coils, water piping, insulation, valves and a feed water pump. The total cost of these items was \$427,000. As you can see on the schematic diagram enclosed, similar, if not the same equipment for a few of these items, is being applied for here.

Fourth, certification for the generator was granted Publishers Paper under the additional facility provision of ORS 468.155(1)(d), which allows certification of facilities

which will increase the production or recovery of useful materials or energy over the amount being produced or recovered by the original facility whether or not the materials or energy produced or recovered are similar to those of the original facility.

In this respect, the case for the generator is no stronger than the case for this equipment. If the company builds additional kilns in future years, the construction of this equipment would increase the production of energy in a useful form. It would accomplish this by calling for an increased utilization of solid waste.

In its approval of the turbine generator, the Department based its interpretation of legislative intent on the testimony before two House committees of Thomas Senaca, general counsel of Associated Oregon Industries. Mr. Senaca sent a copy of this testimony to the Department; the relevant part states,

2. The co-generation future (sic) of the bill found in Section 1 (ORS 468.155(1)(d).) which includes a new definition added to the resource recovery section. If for instance, an electric turbine is added to an existing solid waste fueled boiler it would qualify for tax credit. There will be some applications of this section, but we are unsure what the impact will be. It is our belief that new solid waste fueled boilers that are large enough will add the turbine and which we believe are certifiable (sic) under existing law.

Dr. Grace Phinney
May 9, 1979
Page 3

In his letter accompanying this testimony, Mr. Donaca states that the above was his "general understanding" of ORS 468.155(1)(a) and that he had "no reason to believe the members of either house committee had any different understanding". Further on, Mr. Donaca states that, with the installation of the generator,

The fact that solid waste utilization is increased thereby simply reaffirms the 'substantial purpose' test found in both subsections (1) and (2) of ORS 468.155 as well as subsection (1)(c) or ORS 468.165. However, this is not essential if the original boiler was using solid waste and is still using solid waste at the time the generator is installed.

We agree with the Department's decision to certify the generator based on this interpretation of legislative intent. Such an interpretation, i.e., based on the unrefuted testimony of one person who cites a probable application of ORS 468.155(1)(a), does not, however, preclude the application of either ORS 468.165(c) or ORS 468.155(1) and (2) to heating equipment within a dry kiln.

It should be noted that the steam heat dump system, which has been granted preliminary certification from the Department, operates on the same general principle as this kiln equipment, complete with pipes, valves and heating coils. The steam heat dump system merely releases heat into the atmosphere, thereby eliminating particulate emissions which were prevalent when a wigwam burner was previously being used at the plant. The equipment applied for, on the other hand, puts this heat to work by drying lumber.

We do not deny that there is an economic benefit here to the company. Whereas it was previously air drying lumber, it is now using a kiln, a much more efficient method. But the same holds true for a particleboard plant, a waste pulping system, a chipper, or a turbine generator, all of which have been certified by the department. There was a profit motive involved in the construction of all these facilities. We believe that Oregon law says that a tax credit may be granted for the construction of a facility from which a person derives an economic benefit, as long as the solid waste problem in the state is alleviated. That is what Rought & Ready is accomplishing by the construction of the equipment applied for here.

It is anticipated that Mr. Schmidt will reply to this letter. Any other replies are welcome. At present, we are convinced that this equipment should be granted preliminary certification. We have difficulty in understanding why certification should not be granted in view of the fact that similar, if not the same equipment, has been approved for Publishers Paper (coils, pipes, insulation, valves and a pump) and, previously, for our company

APPROVED FOR THE
DIRECTOR OF STEAM

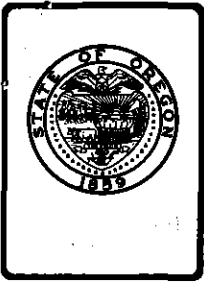
Dr. Grace Hinney
May 1, 1979
Page 6

(equipment within the steam heat dump system). We also have difficulty in understanding why the construction of this energy-producing equipment, which effectively solves the company's solid waste problem, should not be considered to have been built for the purpose of utilizing that waste.

Very truly yours,

Richard W. Miller

RW/cig
Enclosure



Environmental Quality Commission

POST OFFICE BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item No. D, June 29, 1979, EQC Meeting

Authorization to Conduct Public Hearings on the Question of Amending Administrative Rules Governing Subsurface and Alternative Sewage Disposal; Subsurface Fees to Be Charged by Marion and Deschutes Counties, OAR 340-72-010

Background and Problem Statement

Subsurface and alternative sewage disposal systems permit fees are established under Oregon Administrative Rules (OAR) Chapter 340, Section 72-005 to Section 72-020. These rules, adopted by the Commission, are provided for by statute, Oregon Revised Statutes (ORS) 454.745(1) and ORS 454.625. Further, ORS 454.745(4) provides, "Notwithstanding the requirements of subsections (1) and (2) of this section, the Environmental Quality Commission, upon the request of any county which pursuant to ORS 454.725 has entered into an agreement with the Department of Environmental Quality, may by rule require or permit fees in that county which are lower than those required under subsections (1) and (2) of this section, if that county can show, to the satisfaction of the Environmental Quality Commission, that with the requested lower fees it can otherwise finance the duties required of it by the Agreement with the Department of Environmental Quality."

Under the provisions of ORS 454.745(4) the Commission has established subsurface fees for Marion and Deschutes Counties at a level lower than provided for in ORS 454.745(1). Marion and Deschutes Counties have determined that in order to continue to provide an adequate level of service within the subsurface sewage disposal program, an increase in fees charged is necessary. The Department has received requests, in writing, for fee increases. (Attachments "A" and "B"). The fee schedules proposed by Marion and Deschutes Counties are within maximums established by statute.

Alternatives and Evaluation

With the continuing increase in costs for services, the only apparent alternative is to allow an increase in fees. Each of the two counties will be requested to provide supporting data at the public hearings to substantiate the need for the proposed increased fees.



Contains
Recycled
Materials

Summation

1. ORS 454.625 provides that the Commission, after public hearing, shall adopt such rules as it considers necessary for the purpose of carrying out ORS 454.605 to 454.745.
2. ORS 454.745(4) provides that the Commission may by rule establish fees lower than the maximums established under ORS 454.745(1), upon request of a contract county. Marion and Deschutes Counties have fee schedules established lower than the maximums.
3. Marion and Deschutes Counties have requested a fee schedule rule amendment which would increase their fee income. The proposed new schedules are within maximums established by statute.

Director's Recommendation

Based upon the summation, it is recommended that the Commission authorize public hearings, to take testimony on the question of amending Administrative Rules governing Subsurface Sewage Disposal 340-72-010; fees to be charged by Marion and Deschutes Counties.

Bill

WILLIAM H. YOUNG

Attachments (5):

- Attachment "A" and "B"
Requests for Fee Schedule Rule Amendments
- Attachment "C"
Proposed Rule Amendments, Marion County
- Attachment "D"
Proposed Rule Amendments, Deschutes County
- Attachment "E"
Statement of Need for Rulemaking
- Attachment "F"
Draft of Public Hearing Notice

T. J. Osborne:nf

229-6218

June 12, 1979

MARION COUNTY**BOARD OF COMMISSIONERS****COURTHOUSE, SALEM, OREGON, 97301**

May 10, 1979

COMMISSIONERS
 Harry Carson, Jr., Chairman
 Randall Franke
 Pat McCarthy

EXECUTIVE OFFICER
 Harold F. Brauner

LEGAL COUNSEL
 Frank C. McKinney

TELEPHONE 588-5212
 AREA CODE 503



Mr. Jack Osborn
 Department of Environmental Quality
 Subsurface Sewage Systems Section
 P. O. Box 1760
 Portland, Oregon 97207

Dear Mr. Osborn:

We have recently reviewed the costs and revenues of our subsurface sewage disposal section and find that our fees are inadequate for us to continue a reasonable level of service.

Accordingly, we are submitting the following modest fee increase for approval by the Environmental Quality Commission, hopefully at their May meeting. If these rates are approved, they will become effective in Marion County on July 1, 1979.

Following are the proposed fees as approved by the Board of Commissioners on May 9:

Site evaluation - 1 lot or site	\$50.00
Second and succeeding contiguous lots applied for at the same time	\$25.00
Construction permit (after site evaluation)	\$50.00
Repair, alteration, or extension	\$25.00

Approval of the above fees will be appreciated.

Sincerely,

BOARD OF COMMISSIONERS

Harry Carson, Jr.
 Harry Carson, Jr.
 Chairman

State of Oregon
 DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
 MAY 14 1979
 WATER QUALITY CONTROL

HC:c

cc: Roland Withrow

DESCHUTES COUNTY
 BOARD OF COMMISSIONERS
 COURTHOUSE ANNEX
 BEND, OREGON 97701
 (503) 382-4000, Ext. 200

May 25, 1979

Jack Osborne
 Department of Environmental Quality
 P. O. Box 1760
 Portland, Oregon 97207

Dear Mr. Osborne:


It is requested that Deschutes County be allowed to increase the fees for subsurface and alternative sewage disposal program activities in order to provide adequate services. The proposed fees to be charged by Deschutes County are as follows:

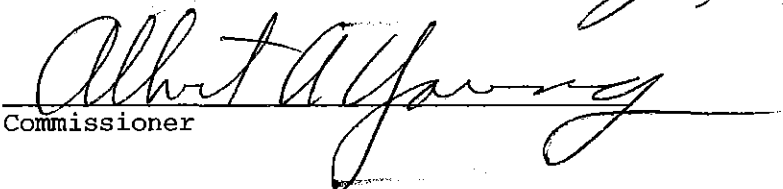
A. New Construction Installation Permit	\$75.00
B. Alteration, Repair or Extension Permit	\$15.00
C. Evaluation Reports	\$37.50

Sincerely,

BOARD OF COUNTY COMMISSIONERS


 Chairman


 Commissioner


 Commissioner

cc: John Glover
 County Sanitarian

State of Oregon
 DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
 JUN 04 1979

WATER QUALITY CONTROL

Proposed Amendment to OAR 340-72-010
(Fees to be Charged by Marion County)

Amend OAR 340-72-010(4)(d) as follows:

(d) The fees to be charged by the County of Marion shall be as follows:

(A) New Construction Installation Permit [~~\$75.00~~] \$50.00
(after site evaluation)

(B) Alteration, Repair or Extension Permit \$25.00

(C) [Evaluation Reports]	[\$37.50]
<u>Site Evaluation-one (1) lot or site</u>	<u>\$50.00</u>
<u>Second and succeeding contiguous</u>	
<u>lots applied for at the same time</u>	<u>\$25.00</u>

Bracketed [] material is deleted
Underlined _____ material is new

PROPOSED AMENDMENT TO OAR 340-72-010
(FEES TO BE CHARGED BY DESCHUTES COUNTY)

Amend OAR 340-72-010(4) as follows:

- (4) Pursuant to ORS 454.745(4) and to requests of the respective governing bodies of the following counties all of which have agreements with the department under ORS 454.725, and notwithstanding the fees listed in subsection (1) of this section and subsection (1) of section 340-72-020,
- (a) The fees to be charged by the counties of Clatsop, Crook, Curry, [Deschutes,] Hood River, Jefferson, Josephine, Lincoln, Malheur, Polk, Sherman, and Wasco shall be as follows:
- | | |
|--|------|
| (A) New Construction Installation Permit | \$50 |
| (B) Alteration, Repair on Extension Permit | \$15 |
| (C) Evaluation Reports | \$25 |

Amend OAR 340-72-010(4) by adding a new paragraph (h) to read as follows:

and (h) the fees to be charged by the county of Deschutes shall be as follows:

- | | |
|---|----------------|
| <u>(A) New Construction Installation Permit</u> | <u>\$75</u> |
| <u>(B) Alteration, Repair on Extension Permit</u> | <u>\$15</u> |
| <u>(C) Evaluation Reports</u> | <u>\$37.50</u> |

Bracketed [] material is deleted.

Underlined _____ material is new.

TJO:nf

Statement of Need for Rulemaking

Pursuant to ORS 183.335(7), this statement provides information on the Environmental Quality Commission's intended action to adopt a rule.

Proposed amendment to OAR 340-72-010, Subsurface Fees to be Charged by Marion and Deschutes Counties.

1. Subsurface and Alternative Sewage Disposal Systems Permit Fees are established under Oregon Administrative Rules (OAR) Chapter 340, Section 72-005 to Section 72-020. These rules, adopted by the Commission, are provided for by Statute, Oregon Revised Statutes (ORS) 454.745(1). Further, ORS 454.745(4) provides, "Notwithstanding the requirements of subsections (1) and (2) of this section, the Environmental Quality Commission, upon the request of any county which pursuant to ORS 454.725 has entered into an agreement with the Department of Environmental Quality may by rule require or permit fees in that county which are lower than those required under subsection (1) and (2) of this section, if that county can show, to the satisfaction of the Environmental Quality Commission, that with the requested lower fees it can otherwise finance the duties required of it by agreement with the Department of Environmental Quality."
2. Under the provision of ORS 454.745(4) the Commission has established subsurface fees for Marion and Deschutes Counties at a level lower than provided for in ORS 454.745(1). Marion and Deschutes Counties have determined that in order to continue to provide an adequate level of service within the subsurface sewage disposal program, an increase in fees charged is necessary. The Department has received requests in writing for fee increases. The fee schedules proposed by Marion and Deschutes Counties are still within the maximum established by statute.
3. Principle documents relied upon in considering the need for and in preparing the rule is letter of need from Marion County dated May 10, 1979 and letter of need from Deschutes county dated May 25, 1979.

NOTICE OF PUBLIC HEARINGA CHANCE TO BE HEARD ABOUT:

WHETHER TO AMEND CURRENT RULES GOVERNING FEES TO
BE CHARGED BY MARION AND DESCHUTES COUNTIES FOR SUBSURFACE
DISPOSAL PERMITS AND SITE EVALUATIONS.

Marion and Deschutes Counties have requested that the Environmental Quality Commission (EQC) amend Administrative Rules, OAR 340-72-010, pertaining to fees that may be charged for subsurface sewage disposal construction permits and site evaluations. These two Counties indicate that an increase in fees is necessary for proper program operation.

WHAT IS THE DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) PROPOSING?

The two Counties are proposing the following fee schedule changes:

MARION COUNTY

	<u>Present Fee</u>	<u>Proposed Fee</u>
New Construction Permit	\$75.00	\$50.00 (after site evaluation)
Alteration, Repair or Extension Permit	25.00	25.00
Site Evaluation	37.50	50.00 (1 lot or site) 25.00 (2nd and succeeding lots applied for at the same time)

DESCHUTES COUNTY

New Construction Permit	\$50.00	\$75.00
Alteration, Repair or Extension Permit	15.00	15.00
Site Evaluation	25.00	37.50

After public hearings, the DEQ will propose appropriate rule amendments regarding fee schedules to the Environmental Quality Commission.

WHO IS AFFECTED BY THIS PROPOSAL?

The residents of Marion and Deschutes Counties as well as other persons who own property in those Counties.

HOW TO PROVIDE YOUR INFORMATION:

Information may be provided by any interested person. Written comments should be sent to Jack Osborne, Department of Environmental Quality, P.O. Box 1760, Portland, OR 97207, and should be received by July 20, 1979.

Oral and written comments may be offered at the following rule making hearings:

<u>City</u>	<u>Time</u>	<u>Date</u>	<u>Location</u>
Salem	10:00 a.m.	July 17, 1979	DEQ Conference Room 1095 25th St. SE, Salem
Bend	1:30 p.m.	July 19, 1979	Courthouse Annex Room "A"

WHERE TO OBTAIN ADDITIONAL INFORMATION:

Copies of the proposed Rules may be obtained from:

Marion County Building Department
220 High St. NE, Salem
Tel: 588-5147

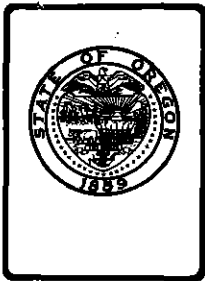
Deschutes County Health Department
Courthouse Annex, Bend
Tel: 382-4000 Ext. 62

LEGAL REFERENCE FOR THIS PROPOSAL:

These public hearings are being proposed under authority of ORS 454.745 and 454.625.

FURTHER PROCEEDINGS:

After public hearings, the EQC may adopt rules identical to those proposed, adopt modified rules on the same subject matter, or decline to act. Present fee schedules will remain in effect until the Commission takes action. The Commission's deliberation should come on either July 27, 1979 or August 31, 1979, as part of a scheduled Commission meeting.



Environmental Quality Commission

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Addendum to Agenda Item No. E, June 29, 1979, EQC Meeting

Proposed Adoption of Temporary Rule Amending Administrative Rules Governing Fees to be Charged for Variances, Permits, Site Evaluations, and Services in the Subsurface Sewage Disposal Program, OAR 340-72-005 to 72-020 and 340-75-040

Background and Problem Statement

Since the preparation of Agenda Item E, House Bill 2111 has been amended to include an "Emergency Clause". This Bill will become effective upon the Governor's signature or July 1, 1979. The Department's budget is predicated on the higher fee schedules contained in House Bill 2111, therefore, it is essential that the new fee schedule be implemented as quickly as possible in order to minimize loss of revenue. Proposed rule amendments are set forth on Attachment "A" dated 6/21/79.

Alternatives and Evaluation

The alternatives are to go through the normal rule-making process with public hearings, etc. prior to rule adoption or to adopt a temporary rule at this meeting.

Under the first alternative, several months of revenue would be lost to the Department and to contract counties. By the act of attaching the Emergency Clause to House Bill 2111 it appears the intent of the Legislature is that the new fees be charged as early as possible.

Summation

1. The three statements contained in the summation of Agenda Item E apply to this addendum.
2. Findings -

Failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned for the following reasons:



Contains
Recycled
Materials

- a. The Department's budget is predicated on the fees contained in House Bill 2111 becoming effective July 1, 1979.
- b. Inability of the Department and some contract counties to charge the new higher fees will result in lost revenue necessary for efficient program operation.

Director's Recommendations

Based upon the findings in the Summation, it is recommended that the Commission adopt the proposed amendments to OAR 340-72-005 to 72-020 and 340-75-040 as set forth in Attachment "A", as temporary rules of the Department to become effective July 1, 1979, or upon the date of the Governor's signing of House Bill 2111, whichever is later.



WILLIAM H. YOUNG

Attachment: Proposed Amendments to OAR 340-76-005
to 72-020 and 340-75-040

T. Jack Osborne:em
229-6218
June 22, 1979

PROPOSED AMENDMENTS TO OAR 340-72-005 to 72-020
AND 340-75-040

FEES FOR PERMITS, LICENSES AND EVALUATION REPORTS

Definitions

340-72-005 The definitions contained in ORS 454.605 and Section 340-71-010 shall apply as applicable.

Amend 340-72-010 as follows:

Fees for Permits and Licenses

340-72-010(1) Except as provided in Subsections (4) and (5) of this Section, the following nonrefundable fees are required to accompany applications for permits, [and] licenses and services [issued under] in accordance with ORS [454.655 and 454.695:] 454.745:

Subsurface or Alternative Sewage Disposal System	Maximum Fee
<u>New site evaluation; first lot - - - -</u>	<u>\$120</u>
<u>Each additional lot evaluated</u>	
<u>while on site - - - - -</u>	<u>\$100</u>
<u>Construction installation permit</u>	
<u>(with favorable evaluation report) - -</u>	<u>[\$100] \$40</u>
<u>Alteration Permit - - - - -</u>	<u>\$25</u>
<u>Repair Permit - - - - -</u>	<u>\$25</u>
<u>Extension Permit - - - - -</u>	<u>\$25</u>
<u>Sewage Disposal Service Business License</u>	<u>\$100</u>
<u>Pumper Truck Inspection - - - - -</u>	<u>\$25</u>
<u>Evaluation of Existing System Adequacy</u>	<u>\$40</u>
<u>Annual Evaluation of Alternative</u>	
<u>System (where required) - - - - -</u>	<u>\$40</u>
<u>Annual Evaluation of Temporary</u>	
<u>Mobile Home - - - - -</u>	<u>\$25</u>

Amend 340-72-010(2) as follows:

(2) A twenty-five dollar (\$25) fee shall be charged for renewal of an expired permit issued under ORS 454.655 in the event a field visit is required prior to renewal, otherwise a ten dollar (\$10) fee shall be charged.

Rescind 340-72-010(3) in its entirety and substitute the following:

(3) Each county having an agreement with the Department under ORS 454.725 shall adopt a fee schedule for services rendered and permits and licenses to be issued. Fees shall not exceed the maximums established in subsection (1) of this section. A copy of the fee schedule and any subsequent amendments to the schedule will be forwarded to the Department.

The Department shall not enter into an agreement, nor continue any agreement as provided for in ORS 454.725, with any county where the total amount of fees collected by that county exceeds the total cost of the program for providing the services rendered and permits and Licenses issued under this Division. Each agreement county shall provide to the Department, an accounting of all fees collected and all expenses for the program on a quarterly basis. In the event fees collected exceed costs of the program for any quarter the agreement will be reevaluated and appropriate fee adjustments made.

Rescind 340-72-010(4) in its entirety and substitute the following:

(4) In addition to the fees listed in Subsection (1) of this section with approval of the Environmental Quality Commission, any agreement county may adopt fee schedules for services related to this program which are not specifically listed in Subsection (1) of this section.

Rescind 340-72-010(5) in its entirety and substitute the following:

(5) Notwithstanding the requirements of Subsection (3) of ORS 454.655, the Department or its contract agent may refund a fee accompanying an application for a permit pursuant to ORS 454.655 or for a report pursuant to ORS 454.755 if the applicant withdraws his application before the Department or its contract agent has done any field work or other substantial review of the application.

Amend 340-72-020 as follows:

Fees for Evaluation Reports

340-72-020(1) Except as provided in Subsection [(4)] (3) of Section 340-72-010, the following nonrefundable fees are required for evaluation reports submitted pursuant to ORS 454.755:

<u>Method</u>	<u>Fee</u>
Sewerage System	[\$5] \$10 first lot [\$10] \$30 maximum ([two (2)] <u>three (3)</u> or more lots)
Subsurface Sewage Disposal	[\$75 per lot] \$120 first lot, \$100 <u>each additional lot evaluated while on site.</u>

(2) No fee shall be charged for the conduct of an evaluation and issuance of a report requested by any person on any repair, alteration, connection or extension of an existing subsurface or alternative sewage disposal system or part thereof.

Amend 340-75-040 as follows:

340-75-040(1) To meet administrative expenses of hearings, except as provided in ORS 454.745(5), a nonrefundable fee of [one hundred and fifty (150)] two hundred twenty-five (225) dollars shall accompany each application for a variance to be acted upon by the Department. The Department shall disburse [twenty-five (25)] forty (40) dollars of the variance fee per granted variance to counties under agreement pursuant to ORS 454.725. Such counties shall issue construction permits, perform final inspection of installed systems and issue Certificates of Satisfactory Completion in cases where variances are granted. Fees submitted with applications to counties under agreement to perform variance duties shall be in accordance with the fee schedule established by the county, not to exceed [one hundred and fifty (150)] two hundred twenty-five (225) dollars per application. Fees collected by a county with a variance agreement may be retained by that county to meet administrative expenses of hearings. A variance fee collected by a county under this rule shall not exceed the county's cost of performing variance duties of the Department.

(2) Notwithstanding subsection (1) of this rule, an applicant for a variance under this rule is not required to pay the nonrefundable fee specified in subsection (1) of this section if, at the time of filing the application, the applicant:

- (a) Is 65 years of age or older;
- (b) Is a resident of this state; and
- (c) Has an annual household income, as defined in ORS 310.630, of \$15,000 or less.

(3) Notwithstanding subsection (1) of this section, the Department or its contract agent may refund a fee collected under subsection (1) of this section if the applicant withdraws the application before the Department or its contract agent has commenced field work or any other substantive work associated with the application.

NOTE: Underlined material is new.
Bracketed [] material is deleted.

TJO:em
6/21/79



Environmental Quality Commission

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item No. E, June 29, 1979, EQC Meeting

Authorization to Conduct Public Hearings on the Question of Amending Administrative Rules Governing Fees to be Charged for Variances, Permits, Site Evaluations and Services in the Subsurface Sewage Disposal Program in Anticipation of Passage of House Bill 2111. OAR 340-72-005 to 72-020 and 340-75-040.

Background and Problem Statement

House Bill 2111 amends ORS 454.662 to provide for increased fees to be charged for Subsurface Sewage Disposal Variances; amends ORS 454.745 to provide for increased fees to be charged for permits, site evaluations and services performed in the subsurface sewage disposal program. In addition, this Bill contains provisions which will eliminate the need for the Commission to adopt rules for contract county fee schedules; requires more detailed accounting of fee income and program costs; provides for fee refunds under certain conditions; exempts certain persons from fee requirements for subsurface variances; provides for fee adjustment on July 1, 1980 to cover actual costs of the program; and finally, allows, with Commission approval, fees to be charged for services related to this program which are not specifically listed in the statute, ORS 454.745.

The Department's budget for the next biennium is predicated on the assumption that House Bill 2111 will be passed by the legislature in its A-engrossed version as amended on June 4, 1979. It is necessary that the Department begin to charge the higher fees as soon as allowed by statute.

ORS 454.625 requires the Commission to adopt such rules as it considers necessary for the purpose of carrying out ORS 454.605 to 454.745. It is necessary to amend the rules governing fee schedules before the new fees may be charged.



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Alternatives and Evaluation

Since the Department's budget for the next biennium is predicated on the new fee schedule contained in HB 2111, there appears to be no practical alternative to revising the present fee schedule contained in the rules.

Proposed rule amendments are set forth in Attachment "C". This proposal has been reviewed by Lane County officials (who played a significant role in drafting HB 2111) at the Department's request. They are in basic agreement with the provisions contained in this proposal.

Summation

1. ORS 454.625 requires the Commission to adopt such rules as it considers necessary for the purpose of carrying out ORS 454.605 to 454.745.
2. House Bill 2111 contains provisions that require adoption of new rules to deal with subsurface fees schedules.
3. The Department's budget for the next biennium is predicated on the maximum fees provided for in House Bill 2111.

Director's Recommendation

Based upon the summation, it is recommended that the Commission authorize public hearings to take testimony on the question of amending OAR 340-72-005 to 72-020 and OAR 340-75-040, fees to be charged for subsurface variances, permits, site evaluations and other subsurface program services.

Bill

WILLIAM H. YOUNG

Attachments (3): "A" Draft Statement of Need for Rulemaking
"B" Draft Hearing Notice
"C" Draft Rule 340-72-005 to 72-020 and 340-75-040

T. Jack Osborne:nf
229-6218
June 12, 1979

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(7), this statement provides information on the Environmental Quality Commission's intended action to adopt a rule.

1. Legal Authority

ORS 454.625 requires the Commission to adopt such rules as it considers necessary for the purpose of carrying out ORS 454.605 to 454.745.

2. Need for the Rule

House Bill 2111 provides increased fees for subsurface variances, permits, site evaluations and services provided in the subsurface sewage disposal program. The Department's budget for the next biennium is predicated on the maximum fees set forth in that legislation. It is necessary to amend the rules governing fees (OAR 340-72-005 to 72-020 and 340-75-040) before the new fees may be charged.

3. Principle Documents Relied upon in this Rulemaking

- a. House Bill 2111, 1979 session, Oregon State Legislature.
- b. The Department of Environmental Quality's biennial budget, July 1, 1979 to June 30, 1981.

T. Jack Osborne:nf
229-6218
June 12, 1979

Notice of Public HearingA CHANCE TO BE HEARD ABOUT:

Whether to amend current administrative rules governing fees to be charged for subsurface sewage disposal variances, permits, site evaluations and services in the subsurface sewage disposal program.

House Bill 2111 adopted by the Oregon State Legislature, 1979 session, amends ORS 454.662, to provide for increased fees to be charged for subsurface sewage disposal variances. This bill further amends ORS 454.745 to provide for increased fees to be charged for permits, site evaluations and services performed in the subsurface sewage disposal program.

WHAT IS THE DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) PROPOSING?

The DEQ is proposing to amend OAR 340-72-005 to 72-020 and 340-75-040 as follows:

OAR 340-75-040 would be amended to increase the fees charged for a subsurface variance from \$150 to \$225 and provide exemptions.

OAR 340-72-005 to 72-020 would be amended to reflect the following fee changes:

Subsurface and Alternative Sewage Disposal System

	<u>Maximum Fee</u>	
	<u>New Fee</u>	<u>Old Fee</u>
New site evaluation; first lot	\$120	
Each additional lot evaluated while on site	\$100	
Construction Installation Permit (with favorable evaluation report)	\$ 40	\$100*
Alternation Permit	\$ 25	\$ 25
Repair Permit	\$ 25	\$ 25
Extension Permit	\$ 25	\$25
Sewage Disposal Service Business Licence	\$100	\$100
Pumper Truck Inspection	\$ 25	----
Evaluation of Existing System Adequacy	\$ 40	----

	<u>New Fee</u>	<u>Old Fee</u>
Annual Evaluation of Alternative System (where required)	\$ 40	----
Annual Evaluation of Temporary Mobile Home	\$ 25	----

* Cost of site evaluation, not to exceed \$75, to be deducted from this fee.

Each contract county would establish a fee schedule within these maximums. The Department's fee schedule would be that shown in the lefthand column of figures above.

These proposed rules would require more detailed accounting of fee income and program costs. Fee income may not exceed actual cost of the program. In addition, the proposed rules provide for fee refunds under certain conditions; exempts certain persons from fee requirements for subsurface variances; and allows fees to be charged for services related to the subsurface program which are not specifically listed in the statute. Interested persons should read the entire text of proposed amendments. After public hearings, the DEQ will propose appropriate rule amendments regarding fee schedules to the Environmental Quality Commission.

WHO IS AFFECTED BY THIS PROPOSAL?

All residents of the state who anticipate building where the method of sewage disposal would be subsurface or an alternative system; persons whose present sewage disposal method is subsurface or an alternative system; persons licensed to install or pump septic tanks; property developers and subdividers; and the public in general.

HOW TO PROVIDE YOUR INFORMATION:

Information may be provided by any interested person. Written comments should be sent to Jack Osborne, Department of Environmental Quality, P.O. Box 1760, Portland, Oregon 97207, and should be received by _____.

Oral or written comments may be offered at the following rule making hearings:

Portland

Eugene

WHERE TO OBTAIN ADDITIONAL INFORMATION:

These public hearings are being proposed under authority of ORS 454.745 and 454.625.

FURTHER PROCEEDINGS:

After public hearings, the Environmental Quality Commission may adopt rules identical to those proposed, adopt modified rules on the same subject matter, or decline to act. Present fee schedules and current rules pertaining to fees will remain in effect until the Commission takes action. The Commission's deliberations should come as part of a regularly scheduled monthly Commission meeting.

TJO:nf

PROPOSED AMENDMENTS TO OAR 340-72-005 to 72-020
AND 340-75-040

FEEES FOR PERMITS, LICENSES AND EVALUATION REPORTS

Definitions

340-72-005 The definitions contained in ORS 454.605 and Section 340-71-010 shall apply as applicable.

Amend 340-72-010 as follows:

Fees for Permits and Licenses

340-72-010(1) except as provided in Subsections (4) and (5) of this Section, the following nonrefundable fees are required to accompany applications for permits, [and] licenses and services [issued under] in accordance with ORS 454.655 and 454.695:

Subsurface or Alternative Sewage Disposal System	Maximum Fee
<u>New site evaluation; first lot - - - -</u>	<u>\$120</u>
<u>Each additional lot evaluated while on site - - - - -</u>	<u>\$100</u>
<u>Construction installation permit (with favorable evaluation report) - -</u>	<u>[\$100] \$40</u>
<u>Alteration Permit - - - - -</u>	<u>\$25</u>
<u>Repair Permit - - - - -</u>	<u>\$25</u>
<u>Extension Permit - - - - -</u>	<u>\$25</u>
<u>Sewage Disposal Service Business License</u>	<u>\$100</u>
<u>Pumper Truck Inspection - - - - -</u>	<u>\$25</u>
<u>Evaluation of Existing System Adequacy</u>	<u>\$40</u>
<u>Annual Evaluation of Alternative System (where required) - - - - -</u>	<u>\$40</u>
<u>Annual Evaluation of Temporary Mobile Home - - - - -</u>	<u>\$25</u>

Amend 340-72-010(2) as follows:

(2) A twenty-five dollar (\$25) fee shall be charged for renewal of an expired permit issued under ORS 454.655 in the event a field visit is required prior to renewal, otherwise a ten dollar (\$10) fee shall be charged.

Rescind 340-72-010(3) in its entirety and substitute the following:

(3) Each agreement county shall adopt a fee schedule for services rendered and permits and licenses to be issued. Fees shall not exceed the maximums established in subsection (1) of this section. A copy of the fee schedule and any subsequent amendments to the schedule will be forwarded to the Department.

The Department shall not enter into an agreement, nor continue any agreement as provided for in ORS 454.725, with any county where the total amount of fees collected by that county exceeds the total cost of the program for providing the services rendered and permits and licenses issued under this Division. Each agreement county shall provide to the Department, an accounting of all fees collected and all expenses for the program on a quarterly basis. In the event fees collected exceed costs of the program for any quarter the agreement will be reevaluated and appropriate fee adjustments made.

Rescind 340-72-010(4) in its entirety and substitute the following:

(4) In addition to the fees listed in Subsection (1) of this section with approval of the Environmental Quality Commission, any agreement county may adopt fee schedules for services related to this program which are not specifically listed in Subsection (1) of this section.

Rescind 340-72-010(5) in its entirety and substitute the following:

(5) Notwithstanding the requirements of Subsection (3) of ORS 454.655, the Department or its contract agency may refund a fee accompanying an application for a permit pursuant to ORS 454.655 or for a report pursuant to ORS 454.755 if the applicant withdraws his application before the Department or its contract agent has done any field work or other substantial review of the application.

Amend 340-72-020 as follows:

Fees for Evaluation Reports
 340-72-020(1) except as provided in Subsection [(4)] (3) of Section 340-72-010, the following nonrefundable fees are required for evaluation reports submitted pursuant to ORS 454.755:

<u>Method</u>	<u>Fee</u>
Sewage System	[5] <u>\$10</u> first lot [20] <u>\$30</u> maximum (two (2)) <u>three (3)</u> or more lots
Subsurface Sewage Disposal	<u>[\$75 per lot] \$120 first lot, \$100 each additional lot evaluated while on site.</u>

(2) No fee shall be charged for the conduct of an evaluation and issuance of a report requested by any person on any repair, alteration, connection or extension of an existing subsurface or alternative sewage disposal system or part thereof.

Amend 340-75-040 as follows:

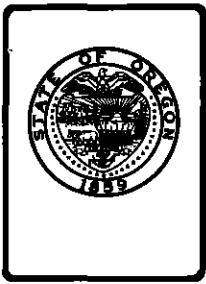
340-75-040(1) To meet administrative expenses of hearings, except as provided in ORS 454.745(5), a nonrefundable fee of [one hundred and fifty (150)] two hundred twenty-five (225) dollars shall accompany each application for a variance to be acted upon by the Department. The Department shall disburse [twenty-five (25)] forty (40) dollars of the variance fee per granted variance to counties under agreement pursuant to ORS 454.725. Such counties shall issue construction permits, perform final inspection of installed systems and issue Certificates of Satisfactory Completion in cases where variances are granted. Fees submitted with applications to counties under agreement to perform variance duties shall be in accordance with the fee schedule established by the county, not to exceed [one hundred and fifty (150)] two hundred twenty-five (225) dollars per application. Fees collected by a county with a variance agreement may be retained by that county to meet administrative expenses of hearings. A variance fee collected by a county under this rule shall not exceed the county's cost of performing variance duties of the Department.

(2) Notwithstanding subsection (1) of this rule, an applicant for a variance under this rule is not required to pay the nonrefundable fee specified in subsection (1) of this section if, at the time of filing the application, the applicant:

- (a) Is 65 years of age or older;
- (b) Is a resident of this state; and
- (c) Has an annual household income, as defined in ORS 310.630, of \$15,000 or less.

NOTE: Underlined _____ material is new.
Bracketed [] material is deleted.

TJO:em
5/7/79



Environmental Quality Commission

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. G-1, June 29, 1979, EQC Meeting

Motor Vehicle Emission Testing Rules - Consideration of Adoption of Proposed Amendments to the Rules Including the Addition of Standards for Light and Heavy Duty 1979 Model Year Motor Vehicles and the Inclusion of Clarification of Procedures for the Tampering Portion of the Inspection Program, OAR 340-24-300 through 24-350

Background and Problem Statement

At the Environmental Quality Commission meeting of April 27, 1979, authorization was granted to hold a public hearing to consider amendments to the inspection program rules. These proposed amendments were the annual updating of the inspection program standards to include both light and heavy duty 1979 motor vehicles and a procedural change in the tampering portion of the inspection test. The proposed rule amendments are presented in Appendix A. The statement of need which also cites the Commission's rule making authority is attached as Appendix B.

Alternatives and Evaluation

The public hearing was held May 17, 1979 at the State Office Building in Portland. The hearing officer's report is attached as Appendix C.

Two people offered testimony at the hearing. Both indicated that when cars were set using the manufacturers' specified procedures and set to the manufacturer's specification, emissions were obtainable well within the standards which DEQ is currently using and are being proposed for the 1979 model year. Each gentleman did, however, raise an issue outside of the scope of the proposed rules. In one instance the issue that was raised was that sometimes the repairs required on older cars often exceeded the dollar value of the vehicle itself. The other issue raised was that it



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was felt the Department's public relations program should be increased so as to make consumers and motorists more aware of the benefits of the program, as well as their responsibility as motorists and car owners in maintaining their vehicles for proper pollution control.

In written testimony received from General Motors Corporation, General Motors stated that they felt that the hydrocarbon idle emission limits proposed for the 1979 heavy duty truck series was more stringent than their design would allow and recommended that the Department reconsider the idle hydrocarbon values proposed for 1979 heavy duty trucks.

In reviewing the testimony received by the public participants at the hearing, it had been the Department's contention and was agreed upon by those who offered testimony, that cars were well able to meet the inspection program standards when they were adjusted and maintained in accordance with the manufacturers' recommended procedures and specifications.

The General Motors testimony, however, was in a different light and reflects new information received on 1979 heavy duty trucks which to date have not been required to go through the inspection program system. General Motors raises the point that some of its heavy duty engines will emit higher idle hydrocarbons than allowed by the proposed standard. This data is based on truck engine testing during federal certification. While General Motors did not recommend any specific alternatives to the value which the Department staff had proposed and the data supplied by General Motors was extremely limited, nevertheless staff has reviewed the idle limits for hydrocarbons proposed for 1979 model year heavy duty trucks and has proposed values which allow for a slightly more lenient idle hydrocarbon value.

In regard to the testimony on the program operations outside of the proposed rule changes, the staff notes that there is no provision in the statutes for any cost waiver. It is thus possible that repairs to an automobile might indeed be more than the car is worth, but that is a decision that must be made by the vehicle owner.

Regarding the comments to the need for increased public awareness and public information from the Department staff, the Department is continuing to operate public relations and public information programs within the existing resources and budgetary constraints. There is an awareness that certain increased efforts in these areas are necessary and this has been incorporated in the program goals and objectives. However, the total training of the general public by the Department on how to properly care for and operate a car is really outside of the scope of our legislative direction. The advertising agencies of the major automobile manufacturers, some of the advertisements in the auto magazines, and new car dealers might well be to blame for the misconception as to performance/fuel economy/emissions benefits, capabilities and limitations of today's automobiles.

The inspection program standards have been reviewed and changes made reflecting the comments received from the public hearing, no comments were received regarding the inclusion of the fuel filler inlet restrictor as part of the tampering section.

As required by ORS 197.180, it has been determined that these proposed rule changes do not affect land use.

Summation

Comments from the public were received at the public hearing. In general the comments supported the inspection program standards for light duty vehicles. Comments from the hearing regarding the heavy duty standards were reviewed and appropriate modifications were made. The changes proposed for the inspection program rules are reasonable and update the standards for the current technology vehicles. The changes in procedures for the inclusion of the fuel filler inlet restrictor is consistent with the program direction.

Director's Recommendation

Based upon the summation, it is recommended that the Commission adopt the proposed rule amendments as presented in Appendix A.



William H. Young

WPJasper:tf
229-5081
June 12, 1979

- Attachments:
- 1) Appendix A, Proposed Rule Amendments
 - 2) Appendix B, Statement of Need
 - 3) Appendix C, Hearings Officer's Report

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2
 3 In the Matter of the Adoption of)
 Amendments to the Motor Vehicle)
 4 Emission Testing Rules, OAR Chapter) STATEMENT OF NEED
 340, Section 24-300 to 24-350.)

5
 6 The Environmental Quality Commission intends to adopt the motor vehicle
 7 inspection program rule amendments (OAR Chapter 340, Section 24-300 to
 8 24-350)

9 A. Legal Authority - ORS 460.370 and ORS 183.341

10 B. Need for Rule - to update the specific emission criteria for
 11 various vehicle classes to include standards for 1979 model
 12 year heavy duty and light duty motor vehicles and to provide
 13 the inclusion of clarification of the procedures for the
 14 tampering portion of the inspection

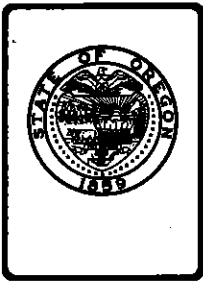
15 C. Documents Relied Upon - the existing rules, motor vehicles
 16 manufacturers' publications and compendiums, i.e., service
 17 manuals, technical bulletins and technical papers as appropriate
 18 and the comments from the public hearing of May 17, 1979.

19
 20
 21 DEPARTMENT OF ENVIRONMENTAL QUALITY

22 *William P. Jasper*

23 By: William P. Jasper

24 Date: June 12, 1979



Environmental Quality Commission

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Hearing Officer

Subject: Hearing Report Proposed Rules for Emission Inspection Program

Background

Commencing at 1 p.m., on Thursday, May 17, 1978, a public hearing was held in Room 36 of the State Office Building in Portland, Oregon. At the time of the hearing it was announced that the record was to be held open until May 25. Of the five people in attendance, two offered testimony. This testimony is summarized below.

Written testimony was also offered by General Motors Corporation. A copy of that is attached, and that testimony is summarized below:

Summary of Testimony

Robert Wilson, representing himself. Mr. Wilson stated that he felt that the inspection program laws were somewhat regressive. This is because they require that older cars oftentimes have repairs performed on them in order to pass the test, and that these repairs sometimes cost more than the car was actually worth. Mr. Wilson is involved in the automotive repair business. He did state that when manufacturer's procedures and specifications were followed, the emission levels from the cars, especially newer ones, were well below what the DEQ inspection standards were. And as such he did not have a problem with the standards being proposed or the standards in general. His main concern was that on the older cars where certain parts are no longer available, the cost of repairs could be more than the car was worth.

George E. Sipes is the service manager from Canyon Chrysler-Plymouth. Mr. Sipes felt that the program rules proposed could be easily met by cars that are maintained according to the manufacturer's instructions. He stated, however, that the Department should increase its public relations program so that consumers would be more aware of the benefits of the program, as well as their responsibilities as motorists and car owners. Mr. Sipes indicated that too often the consumers on one hand wanted to pass the test, but on the other hand, wanted a certain performance or that



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the car be adjusted to a condition that was not within manufacturer's specifications. Mr. Sipes indicated that their shop strictly followed the manufacturer's procedures only at the specific direction of their customer.

Written Testimony

General Motors. Mr. T. M. Fisher of General Motors submitted written testimony commenting upon the proposed standards for the heavy duty trucks included in the proposed regulations. They commented, based on truck engine testing done in conjunction with Federal certification, that the hydrocarbon standards proposed will be placing an unfair hardship upon the design technology used on these trucks. While not making any specific recommendations for alternative levels, General Motors calls for the adoption of more appropriate idle hydrocarbon values.

Recommendation

Your hearing officer makes no recommendation in this matter.

Respectfully submitted,


William P. Jasper
Hearing Officer

WPJ:tf



Environmental Activities Staff
 General Motors Corporation
 General Motors Technical Center
 Warren, Michigan 48090

May 18, 1979

Mr. Ron Householder, Manager
 Motor Vehicle Emission Testing
 Department of Environmental Quality
 1234 S.W. Morrison Street
 Portland, Oregon 97205

Dear Mr. Householder:

General Motors appreciates this opportunity to comment on the State of Oregon's proposed Motor Vehicle Emission Testing Rules which update and include idle standards for 1979 model year heavy-duty gasoline powered in-use vehicles.

Section 24-335 Heavy-Duty Gasoline Motor Vehicle
 Emission Control Emission Standards

The Oregon Department of Environmental Quality proposes revisions to their heavy-duty gasoline motor vehicle emission control standards to include 1979 model year carbon monoxide (CO) and hydrocarbon (HC) idle emission standards. These standards for 1979 model year heavy-duty gasoline vehicles are:

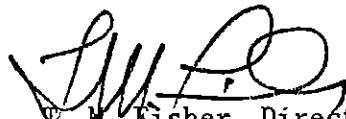
	<u>1979 MODEL YEAR</u>	
	<u>Base Standard</u>	<u>Enforcement Tolerance Through June, 1980</u>
Idle % CO	2.0	1.0
2500 RPM % CO	2.0	1.0
Idle PPM (C ₆)	200	100

General Motors believes the Oregon proposed idle hydrocarbon standard for the 1979 model year heavy-duty gasoline motor vehicles is extremely stringent. Hydrocarbon emissions from some General Motors heavy-duty durability engines, used for 1979 certification to meet the more stringent 1979 Federal Emission Standards for heavy-duty gasoline vehicles, have measured values of 380 PPM HC (C₆) at idle. Engines with these measured values are, however, within the range to be in compliance with the Federal Emission Standards for 1979 certification.

It must also be noted, these measured idle hydrocarbon values were made under ideal test conditions. Consequently, idle hydrocarbon measurements in the field could potentially exceed the Oregon proposed standard but still comply with the Federal Emission Standards.

General Motors recommends the Oregon Department of Environmental Quality adopt a 1979 model year base idle hydrocarbon standard that will provide sufficient stringency to identify "gross emitters," but enough leniency to permit compliance of those heavy-duty gasoline vehicles which comply with the Federal Emission Standards for 1979 but may have what might appear to be "high" idle HC. The adoption of the General Motors recommendations should enable the State of Oregon to perform an idle emissions test on heavy-duty vehicles without unduly penalizing those vehicles whose design values enable compliance to federal requirements but not necessarily to idle inspection standards.

If you should have any questions regarding our position to your proposed regulations, please advise us.



V. M. Fisher, Director
Automotive Emission Control

8LLF/518/2

cc: William P. Jasper

PROPOSED REVISION TO OREGON ADMINISTRATIVE RULES, CHAPTER 340

MOTOR VEHICLE EMISSION CONTROL INSPECTION TEST CRITERIA, METHODS, AND STANDARDS.

OAR 340-24-305 (25)

(25) "Motor vehicle pollution control system" means equipment designed for installation on a motor vehicle for the purpose of reducing the pollutants emitted from the vehicle, or a system or engine adjustment or modification which causes a reduction of pollutants emitted from the vehicle[-], or a system or device which inhibits the introduction of fuels which can adversely effect the overall motor vehicle pollution control system.

340-24-320 (3)

(3) No vehicle emission control test for a 1970 or newer model vehicle shall be considered valid if any element of the following factory-installed motor vehicle pollution control systems have been disconnected, plugged, or otherwise made inoperative in violation of ORS 483.825(1), except as noted in subsection (5). Motor vehicle pollution control systems include, but are not necessarily limited to:

- (a) Positive crankcase ventilation (PCV) system
- (b) Exhaust modifier system
 - (A) Air injection reactor system
 - (B) Thermal reactor system
 - (C) Catalytic converter system - (1975 and newer model vehicles only)
- (c) Exhaust gas recirculation (EGR) systems - (1973 and newer model vehicles only)
- (d) Evaporative control system - (1971)
- (e) Spark timing system
 - (A) Vacuum advance system
 - (B) Vacuum retard system
- (f) Special emission control devices
 - Examples:
 - (A) Orifice spark advance control (OSAC)
 - (B) Speed control switch (SCS)
 - (C) Thermostatic air cleaner (TAC)
 - (D) Transmission controlled spark (TCS)
 - (E) Throttle solenoid control (TSC)
 - (F) Fuel filler inlet restrictors

340-24-325

(3) No vehicle emission control test [~~conducted after June 7, 1977,~~] for a 1970 or newer model vehicle shall be considered valid if any element of the following factory-installed motor vehicle pollution control systems have been disconnected, plugged, or otherwise made inoperative in violation of ORS 483.825(1), except as noted in subsection (5):

- (a) Positive crankcase ventilation
- (b) Exhaust modifier system
 - Examples:
 - Air injection system
 - Thermal reactor system
 - Catalytic convertor system
- (c) Exhaust gas recirculation (EGR) systems
- (d) Evaporative control system
- (e) Spark timing system
 - Examples:
 - Vacuum advance system
 - Vacuum retard system
- (f) Special emission control devices
 - Examples:
 - Orifice spark advance control (OSAC)
 - Speed control switch (SCS)
 - Thermostatic air cleaner (TAC)
 - Transmission controlled spark (TCS)
 - Throttle solenoid control (TSC)
 - Fuel filler inlet restrictor

(4) No vehicle emission control test conducted [~~after June, 1977,~~] for a [~~1968~~] 1970 or newer model vehicle shall be considered valid if any element of the factory-installed motor vehicle pollution control system has been modified or altered in such a manner so as to decrease its efficiency or effectiveness in the control of air pollution in violation of ORS 483.825(2), except as noted in subsection (5). For the purposes of this subsection, the following apply:

340-24-330 LIGHT DUTY MOTOR VEHICLE EMISSION CONTROL IDLE EMISSION STANDARDS

- (1) Carbon monoxide idle emission values not to be exceeded:

Enforcement
Tolerance
Through
% June, [~~1979~~] 1980

ALFA ROMEO

1978 and 1979	0.5	0.5
1975 through 1977	1.5	1.0
1971 through 1974	3.0	1.0
1968 through 1970	4.0	1.5
pre-1968	6.0	0.5

AMERICAN MOTORS CORPORATION

1975 through [1978] <u>1979</u> Non-Catalyst	1.5	0.5
1975 through [1978] <u>1979</u> Catalyst Equipped	0.5	0.5
1972 through 1974	2.0	1.0
1970 through 1971	3.5	1.0
1968 through 1969	5.0	0.5
pre-1968	6.0	0.5
Above 6000 GVWR, 1974 through 1978	2.0	1.0

ARROW, Plymouth - see COLT, Dodge

AUDI

<u>1975 through 1979 Catalyst Equipped</u>	<u>0.5</u>	<u>0.5</u>
<u>1975 through [1978] <u>1979</u> Non-Catalyst</u>	<u>1.5</u>	<u>0.5</u>
1971 through 1974	2.5	1.0
1968 through 1970	4.0	1.0
pre-1968	6.0	0.5

AUSTIN - see BRITISH LEYLAND

BMW

1975 through [1978] <u>1979</u>	1.5	0.5
1974, 6 cyl.	2.5	1.0
1974, 4 cyl.	2.0	1.0
1971 through 1973	3.0	1.0
1968 through 1970	4.0	1.0
pre-1968	6.0	0.5

BRITISH LEYLAND

Austin, Austin Healey, Morris, America, and Marina		
1975	2.0	0.5
1973 through 1974	2.5	1.0
1971 through 1972	4.0	1.0
1968 through 1970	5.0	1.0
pre-1968	6.5	0.5

Jaguar

1975 through [1978] <u>1979</u>	0.5	0.5
1972 through 1974	3.0	1.0
1968 through 1971	4.0	1.0
pre-1968	6.0	0.5

MG			
	1976 [and] <u>through</u> [1978] <u>1979</u> MG	0.5	0.5
	1975 MG, MG Midget and 1976 MG Midget	2.0	0.5
	1973 through 1974 MGB, MGBGT, MGC	3.0	1.0
	1971 through 1974 Midget	3.0	1.0
	1972 MGB, MGC	4.0	1.0
	1968 through 1971, except 1971 Midget	5.0	1.0
	pre-1968	6.5	0.5

Rover			
	1971 through 1974	4.0	1.0
	1968 through 1970	5.0	0.5
	pre-1968	6.0	0.5

Triumph			
	1978 <u>and</u> <u>1979</u>	0.5	0.5
	1975 through 1977	2.0	0.5
	1971 through 1974	3.5	1.0
	1968 through 1970	4.0	1.0
	pre-1968	6.5	0.5

BUICK - see GENERAL MOTORS

CADILLAC - see GENERAL MOTORS

CAPRI - see FORD MOTOR COMPANY

CHECKER

	1975 through [1978] <u>1979</u> Catalyst Equipped	0.5	0.5
	1973 through 1974	1.0	1.0
	1970 through 1972	2.5	1.0
	1968 through 1969	3.5	1.0
	pre-1968	6.0	0.5

CHEVROLET - see GENERAL MOTORS

CHEVROLET L.U.V. - see L.U.V., Chevrolet

CHRYSLER - see CHRYSLER CORPORATION

CHRYSLER CORPORATION (Plymouth, Dodge, Chrysler)

	1975 through [1978] <u>1979</u> Non-Catalyst	1.0	0.5
	1975 through [1978] <u>1979</u> Catalyst Equipped	0.5	0.5
	1973 through 1974	1.0	1.5
	1970 through 1972	1.5	1.5
	1968 through 1969	2.0	2.5
	pre-1968	6.0	0.5
	Diesel Engines (all years)	1.0	0.5
	Above 6000 GVWR, 1968 through 1971	4.0	1.0
	Above 6000 GVWR, 1972 through 1978	2.0	1.0

CITROEN

1971 through 1974	3.0	1.0
1968 through 1970	4.0	1.0
pre-1968	6.0	0.5

COLT, Dodge

1978 and 1979	0.5	0.5
1975 through 1977	3.0	0.5
1971 through 1974	5.0	1.0
pre-1971	6.0	0.5

COURIER, Ford

1975 through 1979 Catalyst Equipped	0.5	0.5
1975 through [1978] 1979 Non-Catalyst	1.5	0.5
1973 through 1974	2.0	1.0
pre-1973	4.0	1.0

CRICKET, Plymouth

1973 through 1974 (twin carb. only)	3.0	1.0
1972 (twin carb. only)	4.5	1.0
pre-1972 (and 1972 through 1973 single carb. only)	7.5	0.5

DATSUN

[1978] 1975 through 1979 Catalyst Equipped	0.5	0.5
1975 through [1978] 1979 Non-Catalyst	2.0	0.5
1968 through 1974	2.5	1.0
pre-1968	6.0	0.5

DE TOMASO - see FORD MOTOR COMPANY

DODGE - see CHRYSLER CORPORATION

DODGE COLT - see COLT, Dodge

FERRARI

1978 and 1979	0.5	0.5
1975 through 1977	2.0	0.5
1971 through 1974	2.5	1.5
1968 through 1970	4.0	1.5
pre-1968	6.0	0.5

FIAT

1975 through [1978] <u>1979</u> Non-Catalyst	1.5	0.5
1975 through [1978] <u>1979</u> Catalyst Equipped	0.5	0.5
1974	2.5	1.0
1972 through 1973 124 Spec. sedan and wgn.	4.0	1.0
1972 through 1973 124 sport coupe and spider	3.0	1.0
1972 through 1973 850	3.0	1.0
1971 850 sport coupe and spider	3.0	1.0
1971 850 sedan	6.0	0.5
1968 through 1970, except 850	5.0	0.5
1968 through 1970 850	6.0	0.5
pre-1968	6.0	0.5

FIESTA - see FORD MOTOR COMPANYFORD - see FORD MOTOR COMPANYFORD MOTOR COMPANY (Ford, Lincoln, Mercury, Capri, except Courier)

1975 through [1978] <u>1979</u> Non-Catalyst	1.0	0.5
1975 through [1978] <u>1979</u> Catalyst Equipped	0.5	0.5
1974, except 4 cyl.	1.0	1.0
1973, except 4 cyl.	1.0	1.5
1972, except 4 cyl.	1.0	2.0
1972 through 1974, 4 cyl., except 1971-1973 Capri	2.0	1.0
1971 through 1973 Capri only	2.5	1.0
1970 through 1971	2.0	1.0
1968 through 1969	3.5	1.0
pre-1968	6.0	0.5
Diesel Engines (all years)	1.0	0.5
Above 6000 GVWR, 1968 through 1971	4.0	1.0
Above 6000 GVWR, 1972 through 1973	3.0	1.0
Above 6000 GVWR, 1974 through 1978	2.0	1.0

GENERAL MOTORS (Buick, Cadillac, Chevrolet, GMC, Oldsmobile, Pontiac)

1975 through [1978] <u>1979</u> Non-Catalyst	1.0	0.5
1975 through [1978] <u>1979</u> Catalyst Equipped	0.5	0.5
1973 through 1974	1.0	1.0
1971 through 1972, except 1971 4 cyl.	1.5	1.0
1970, except 4 cyl.	1.5	1.5
1970 through 1971, 4 cyl.	2.5	1.0
1968 through 1969	3.5	1.0
pre-1968	6.0	0.5
Diesel Engines (all years)	1.0	0.5
Above 6000 GVWR, 1968 through 1971	4.0	1.0
Above 6000 GVWR, 1972 through 1973	3.0	1.0
Above 6000 GVWR, 1974 through 1978	2.0	1.0

GMC - see GENERAL MOTORS

HONDA AUTOMOBILE

1975 through [1978] <u>1979</u> CVCC	1.0	0.5
1975 through [1978] <u>1979</u> except CVCC engine	1.5	0.5
1973 through 1974	3.0	1.0
pre-1973	5.0	1.0

INTERNATIONAL HARVESTER

<u>1979 below 8500 GVWR</u>	<u>0.5</u>	<u>0.5</u>
1975 through 1978	2.5	0.5
1972 through 1974	3.0	1.0
1970 through 1971	4.0	1.0
1968 through 1969	5.0	1.0
pre-1968	6.0	0.5
Diesel Engines (all years)	1.0	0.5

JAGUAR - see BRITISH LEYLAND

JEEP - see AMERICAN MOTORS

JENSEN-HEALEY

1973 and 1974	4.5	1.0
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JENSEN INTERCEPTER & CONVERTIBLE - see CHRYSLER CORPORATION

LAND ROVER - see BRITISH LEYLAND, Rover

LINCOLN - see FORD MOTOR COMPANY

L.U.V., Chevrolet

1974 through [1978] <u>1979</u>	1.5	1.0
pre-1974	3.0	1.0

MAZDA

1978 and <u>1979</u> Catalyst Equipped	0.5	0.5
1975 through [1978] <u>1979</u> Non-Catalyst	1.5	0.5
1968 through 1974, Piston Engines	4.0	1.0
1974, Rotary Engines	2.0	0.5
1970 through 1973, Rotary Engines	3.0	0.5

MERCURY - see FORD MOTOR COMPANY

JUN 29 1979

MERCEDES-BENZ

1975 through 1977 Non-Catalyst, 4 cyl.	1.0	0.5
1975 through [1978] <u>1979</u> , all other	0.5	0.5
1973 through 1974	2.0	1.0
1972	4.0	1.0
1968 through 1971	5.0	1.0
pre-1968	6.0	0.5
Diesel Engines (all years)	1.0	0.5

MG - see BRITISH LEYLAND

OLDSMOBILE - see GENERAL MOTORS

OPEL

<u>1975 through 1979 Catalyst Equipped</u>	<u>0.5</u>	<u>0.5</u>
<u>1975 through [1978] <u>1979</u> Non-Catalyst</u>	<u>1.5</u>	<u>0.5</u>
1973 through 1974	2.5	1.0
1970 through 1972	3.0	1.0
1968 through 1969	3.0	1.0
pre-1968	6.0	0.5

PANTERA - see FORD MOTOR COMPANY

PEUGEOT

<u>1978 and 1979</u>	<u>0.5</u>	<u>0.5</u>
<u>1975 through [1978] <u>1977</u></u>	<u>1.5</u>	<u>0.5</u>
1971 through 1974	3.0	1.0
1968 through 1970	4.0	1.0
pre-1968	6.0	0.5
Diesel Engines (all years)	1.0	0.5

PLYMOUTH - see CHRYSLER CORPORATION

PLYMOUTH CRICKET - see CRICKET, Plymouth

PONTIAC - see GENERAL MOTORS

PORSCHE

<u>1978 and 1979 Catalyst Equipped</u>	<u>0.5</u>	<u>0.5</u>
<u>1975 through [1978] <u>1979</u> Non-Catalyst</u>	<u>2.5</u>	<u>0.5</u>
1972 through 1974	3.0	1.0
1974 Fuel Injection 1.8 liter (914)	5.0	1.0
1968 through 1971	5.0	1.0
pre-1968	6.5	0.5

RENAULT

<u>1977 through 1979 Catalyst Equipped</u>	0.5	0.5
<u>1977 through [1978] 1979 Non-Catalyst</u>	1.5	0.5
1976 Carbureted	1.5	0.5
1975 and 1976 Fuel Injection	1.5	0.5
1975 Carbureted	0.5	0.5
1971 through 1974	3.0	1.0
1968 through 1970	5.0	1.0
pre-1968	6.0	0.5

ROLLS-ROYCE and BENTLEY

1975 through [1978] <u>1979</u>	0.5	0.5
1971 through 1974	3.0	1.0
1968 through 1970	4.0	1.0
pre-1968	6.0	0.5

ROVER - see BRITISH LEYLAND

SAAB

<u>1978 and 1979 Catalyst</u>	0.5	0.5
<u>1975 through [1978] 1979 Non-Catalyst</u>	1.5	0.5
1968 through 1974, except 1972		
99 1.85 liter	3.0	1.0
1972 99 1.85 liter	4.0	1.0
pre-1968 (two-stroke cycle)	3.0	3.5

SAPPORO, Plymouth - see COLT, Dodge

SUBARU

1975 through [1978] <u>1979</u>	1.5	0.5
1972 through 1974	3.0	1.0
1968 through 1971, except 360's	4.0	1.0
pre-1968 and all 360's	6.0	0.5

TOYOTA

1975 through [1978] <u>1979 Catalyst Equipped</u>	0.5	0.5
1975 through 1979, 4 cyl. <u>Non-Catalyst</u>	2.0	0.5
1975 through 1978, 6 cyl.	1.0	0.5
1968 through 1974, 6 cyl.	3.0	1.0
1968 through 1974, 4 cyl.	4.0	1.0
pre-1968	6.0	0.5

TRIUMPH - see BRITISH LEYLAND

VOLKSWAGEN

1979 all others	0.5	0.5
1977 and [1978] 1979 Rabbit and Scirocco and Dasher	2.0	0.5
1976 Rabbit and Scirocco	0.5	0.5
1976 through 1978 All Others	2.5	0.5
1975 Rabbit, Scirocco, and Dasher	0.5	0.5
1975 All Others	2.5	0.5
1974 Type 4 Fuel Injection 1.8 liter	5.0	0.5
1972 through 1974, except Dasher	3.0	1.0
1972 through 1974 Dasher	2.5	1.0
1968 through 1971	3.5	1.0
pre-1968	6.0	0.5
Diesel Engines (all years)	1.0	0.5

VOLVO

1978 and 1979	0.5	0.5
1975 through 1977, 6 cyl.	1.0	0.5
1975 through 1977, 4 cyl.	2.0	0.5
1972 through 1974	3.0	1.0
1968 through 1971	4.0	1.0
pre-1968	6.5	0.5

NON-COMPLYING IMPORTED VEHICLES

All	6.5	0.5
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DIESEL POWERED VEHICLES

All	1.0	0.5
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ALL VEHICLES NOT LISTED and VEHICLES FOR WHICH NO VALUES ENTERED

1975 through [1978] 1979 Non-Catalyst, 4 cyl.	2.0	0.5
1975 through [1978] 1979 Non-Catalyst, all except 4 cyl.	1.0	0.5
1975 through 1979 Catalyst Equipped	0.5	0.5
1972 through 1974	3.0	1.0
1970 through 1971	4.0	1.0
1968 through 1969	5.0	1.0
pre-1968 and those engines lesss than 820 cc (50 cu. in.)	6.5	0.5

(2) Hydrocarbon idle emission values not to be exceeded:

<u>PPM</u>	<u>Enforcement Tolerance</u> <u>Through June, [1979] 1980</u>	
No HC Check	—	All two-stroke cycle engines & diesel ignition
1500	100	Pre-1968 4 or less cylinder engines, 4 or less cylindered non-complying imports, and those engines less than 820 cc (50 cu. in.) displacement
1200	100	Pre-1968 with more than 4 cylinder engines, and non-complying imports with more than 4 cylinder engines
800	100	1968 through 1969, 4 cylinder
600	100	All other 1968 through 1969
500	100	All 1970 through 1971
400	100	All 1972 through 1974, 4 cylinder
300	100	All other 1972 through 1974
200	100	1975 through [1978] <u>1979</u> without catalyst
125	100	1975 through [1978] <u>1979</u> with catalyst

(3) There shall be no visible emission during the steady-state unloaded and raised rpm engine idle portion of the emission test from either the vehicle's exhaust system or the engine crankcase. In the case of diesel engines and two-stroke cycle engines, the allowable visible emission shall be no greater than 20% opacity.

(4) The Director may establish specific separate standards, differing from those listed in subsections (1), (2), and (3), for vehicle classes which are determined to present prohibitive inspection problems using the listed standards.

340-24-335 HEAVY DUTY GASOLINE MOTOR VEHICLE EMISSION CONTROL EMISSION STANDARDS

(1) Carbon Monoxide idle emission values not to be exceeded:

	<u>Base Standard</u> %	<u>Enforcement Tolerance</u> Through June, [1979] 1980
<u>ALL VEHICLES</u>		
Pre-1970	6.0	0.5
1970 through 1973	4.0	1.0
1974 through 1978	3.0	1.0
<u>1979</u>	<u>2.0</u>	<u>1.0</u>

(2) Carbon monoxide nominal 2,500 RPM emission values not to be exceeded.

	<u>Base Standard</u> %	<u>Enforcement Tolerance</u> Through June, [1979] 1980
<u>ALL VEHICLES</u>		
Pre-1970	3.0	1.0
1970 through [1978] <u>1979</u>	2.0	1.0
Fuel Injected	No Check	

(3) Hydrocarbon idle emission values not to be exceeded:

	<u>Base Standard</u> PPM	<u>Enforcement Tolerance</u> Through June, [1979] 1980
<u>ALL VEHICLES</u>		
Pre-1970	700	200
1970 through 1973	500	200
1974 through 1978	300	200
<u>1979</u>	<u>250</u>	<u>100</u>

(4) There shall be no visible emission during the steady-state unloaded engine idle and raised rpm portion of the emission test from either the vehicle's exhaust system or the engine crankcase.

(5) The Director may establish specific separate standards, differing from those listed in subsections (1), (2), (3), and (4) for vehicle classes which are determined to present prohibitive inspection problems using the listed standard.

VL738.B3:F22

STATEMENT FOR W. H. YOUNG TO PRESENT TO THE COMMISSION:

AGENDA ITEM 6 (2), June 29, 1979 EQC Meeting

Proposed adoption of amendment to air contaminant discharge permit fee schedule OAR 340-20-155 Table A, and amendment of OAR 340-20-175 to allow exemption from Notice of Construction requirements when required information is submitted with permit application for new or modified sources.

As a result of the budget process, the Department was directed to increase air permit fee revenues by about 16.5%. The matter before you for adoption contains a revision of Table A in the Air Contaminant Discharge Permit Regulation which increases the filing fee from \$25.00 to \$50.00 and increases the annual compliance determination fee by 14.5% across the board as recommended by the Air Contaminant Discharge Permit Task Force. These increases are projected to result in an additional \$85,000 for a total of \$625,000 during the forthcoming biennium.

In addition, this revision will exempt facilities filing permit applications from Notice of Construction requirements and procedures.



Environmental Quality Commission

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Amendment No. 1, Agenda Item No. G2, June 29, 1979
EQC Meeting

Air Contaminant Discharge Permit Rules--proposed Adoption of amendments to air contaminant discharge permit fee schedule OAR 340-20-155 Table A, and amendment of OAR 340-20-175 to allow exemption from Notice of Construction requirements when required information is submitted with a permit application for new or modified sources.

Purpose of Amendment

The Department wishes to correct typographical errors in Table A, the permit fee schedule. The corrections are as follows:

- Item 5b - The current annual compliance determination fee is [100] rather than [[00].
- Item 16 - The current fees to be submitted with a renewal application is [200] rather than [200].
- Item 23 - The current annual compliance determination fee is [450] rather than [459].
- Item 32 - The proposed annual compliance determination fee is 315 rather than 275.
- Item 49 - The current annual compliance determination fee is [275] rather than [225].
- Item 49 - The proposed fees to be submitted with a new application is 590 rather than]]90.



Contains
Recycled
Materials

Environmental Quality Commission
Page 2

A corrected copy of Table A, the permit fee schedule, is attached.

Director's Recommendation

It is recommended that the above changes be made to the fee schedule proposed by the Department prior to any action by the Commission.

A handwritten signature in cursive script that reads "Bill".

WILLIAM H. YOUNG

EGWoods:mg
229-6480
June 25, 1979
Attachment: Table A

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
7. Beet sugar manufacturing	2063	[25] <u>50</u>	300	[1325] <u>1520</u>	[1650] <u>1820</u>	[1350] <u>1570</u>	[325] <u>350</u>
8. Rendering plants	2077						
a) 10,000 or more t/y		[25] <u>50</u>	200	[325] <u>375</u>	[550] <u>625</u>	[350] <u>425</u>	[225] <u>250</u>
b) Less than 10,000 t/y		[25] <u>50</u>	200	[225] <u>260</u>	[450] <u>510</u>	[250] <u>310</u>	[225] <u>250</u>
9. Coffee roasting	2095	[25] <u>50</u>	150	[175] <u>200</u>	[350] <u>400</u>	[200] <u>250</u>	[175] <u>200</u>
10. Sawmill and/or planing	2421						
a) 25,000 or more bd.ft./shift		[25] <u>50</u>	150	[275] <u>315</u>	[450] <u>515</u>	[300] <u>365</u>	[175] <u>200</u>
b) Less than 25,000 bd.ft./shift		[25] <u>50</u>	50	[175] <u>200</u>	[250] <u>300</u>	[200] <u>250</u>	[75] <u>100</u>
11. Hardwood mills	2426	[25] <u>50</u>	50	[175] <u>200</u>	[250] <u>300</u>	[200] <u>250</u>	[200] <u>100</u>
12. Shake and shingle mills	2429	[25] <u>50</u>	50	[175] <u>200</u>	[250] <u>300</u>	[200] <u>250</u>	[75] <u>100</u>
13. Mill work with 10 employees or more	2431	[25] <u>50</u>	125	[225] <u>260</u>	[375] <u>435</u>	[250] <u>310</u>	[150] <u>175</u>
14. Plywood manufacturing	2435 & 2436						
a) Greater than 25,000 sq.ft./hr, 3/8" basis		[25] <u>50</u>	500	[550] <u>630</u>	[1075] <u>1180</u>	[575] <u>680</u>	[525] <u>550</u>
b) Less than 25,000 sq.ft./hr, 3/8" basis		[25] <u>50</u>	350	[325] <u>375</u>	[700] <u>775</u>	[350] <u>425</u>	[375] <u>400</u>
15. Veneer manufacturing only (not elsewhere included)	2435 & 2436	[25] <u>50</u>	75	[175] <u>200</u>	[275] <u>325</u>	[200] <u>250</u>	[100] <u>125</u>
16. Wood preserving	2491	[25] <u>50</u>	125	[175] <u>200</u>	[325] <u>375</u>	[200] <u>250</u>	[150] <u>175</u>
17. Particleboard manufacturing	2492	[25] <u>50</u>	500	[550] <u>630</u>	[1075] <u>1180</u>	[575] <u>680</u>	[525] <u>550</u>

SUGGESTED CHANGES TO THE FEES PROPOSED FOR THE PUBLIC HEARING ON JUNE 21, 1979

TABLE A
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE [FOR 1976 CALENDAR YEAR]

(340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
1. Seed cleaning located in special control areas, commercial operations only (not elsewhere included)	0723	[25] <u>50</u>	75	[85] <u>100</u>	[185] <u>225</u>	[110] <u>150</u>	[100] <u>125</u>
2. Smoke houses with 5 or more employees	2013	[25] <u>50</u>	75	[100] <u>115</u>	[200] <u>240</u>	[125] <u>165</u>	[100] <u>125</u>
3. Flour and other grain mill products in special control areas	2041						
a) 10,000 or more t/y		[25] <u>50</u>	250	[275] <u>315</u>	[550] <u>615</u>	[300] <u>365</u>	[275] <u>300</u>
b) Less than 10,000 t/y		[25] <u>50</u>	200	[110] <u>125</u>	[335] <u>375</u>	[135] <u>175</u>	[225] <u>250</u>
4. Cereal preparations in special control areas	2043	[25] <u>50</u>	250	[200] <u>230</u>	[475] <u>530</u>	[225] <u>280</u>	[275] <u>300</u>
5. Blended and prepared flour in special control areas	2045						
a) 10,000 or more t/y		[25] <u>50</u>	250	[200] <u>230</u>	[475] <u>530</u>	[225] <u>280</u>	[275] <u>300</u>
b) Less than 10,000 t/y		[25] <u>50</u>	200	[100] <u>115</u>	[325] <u>365</u>	[125] <u>165</u>	[225] <u>250</u>
6. Prepared feeds for animals and fowl in special control areas	2048						
a) 10,000 or more t/y		[25] <u>50</u>	250	[275] <u>315</u>	[550] <u>615</u>	[300] <u>365</u>	[275] <u>300</u>
b) Less than 10,000 t/y		[25] <u>50</u>	150	[110] <u>125</u>	[285] <u>325</u>	[135] <u>175</u>	[175] <u>200</u>

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
31. Petroleum refining	2911	[25] <u>50</u>	1000	[2200] <u>2520</u>	[3225] <u>3570</u>	[2225] <u>2570</u>	[1025] <u>1050</u>
32. Asphalt production by distillation	2951	[25] <u>50</u>	200	[275] <u>315</u>	[500] <u>525</u>	[300] <u>325</u>	[225] <u>250</u>
33. Asphalt blowing plants	2951	[25] <u>50</u>	200	[350] <u>400</u>	[575] <u>650</u>	[375] <u>450</u>	[225] <u>250</u>
34. Asphaltic concrete paving plants	2951						
a) Stationary		[25] <u>50</u>	200	[225] <u>260</u>	[450] <u>510</u>	[250] <u>310</u>	[225] <u>250</u>
b) Portable		[25] <u>50</u>	200	[300] <u>345</u>	[525] <u>595</u>	[325] <u>395</u>	[225] <u>250</u>
35. Asphalt felts and coating	2952	[25] <u>50</u>	200	[450] <u>515</u>	[675] <u>765</u>	[475] <u>565</u>	[225] <u>250</u>
36. Blending, compounding, or refining of lubricating oils and greases	2992	[25] <u>50</u>	175	[225] <u>260</u>	[425] <u>485</u>	[250] <u>310</u>	[200] <u>225</u>
37. Glass container manufacturing	3221	[25] <u>50</u>	200	[350] <u>400</u>	[575] <u>650</u>	[375] <u>450</u>	[225] <u>250</u>
38. Cement manufacturing	3241	[25] <u>50</u>	625	[1650] <u>1890</u>	[2300] <u>2565</u>	[1675] <u>1940</u>	[650] <u>675</u>
39. Redimix concrete	3273	[25] <u>50</u>	75	[110] <u>125</u>	[210] <u>250</u>	[135] <u>175</u>	[100] <u>125</u>
40. Lime manufacturing	3274	[25] <u>50</u>	300	[175] <u>200</u>	[500] <u>550</u>	[200] <u>250</u>	[325] <u>350</u>
41. Gypsum products	3275	[25] <u>50</u>	150	[175] <u>200</u>	[350] <u>400</u>	[200] <u>250</u>	[175] <u>200</u>
42. Rock crusher	3295						
a) Stationary		[25] <u>50</u>	175	[225] <u>260</u>	[425] <u>485</u>	[250] <u>310</u>	[200] <u>225</u>
b) Portable		[25] <u>50</u>	175	[300] <u>345</u>	[500] <u>570</u>	[325] <u>395</u>	[200] <u>225</u>

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
18. Hardboard manufacturing	2499	[25] <u>50</u>	500	[350] <u>630</u>	[1075] <u>1180</u>	[575] <u>680</u>	[525] <u>550</u>
19. Battery separator mfg.	2499	[25] <u>50</u>	75	[100] <u>115</u>	[200] <u>240</u>	[125] <u>165</u>	[100] <u>125</u>
20. Furniture and fixtures	2511						
a) 100 or more employees		[25] <u>50</u>	150	[275] <u>315</u>	[450] <u>515</u>	[300] <u>365</u>	[175] <u>200</u>
b) 10 employees or more but less than 100 employees		[25] <u>50</u>	100	[175] <u>200</u>	[300] <u>350</u>	[200] <u>250</u>	[125] <u>150</u>
21. Pulp mills, paper mills, and paperboard mills	2611 2621 2631	[25] <u>50</u>	1000	[2200] <u>2520</u>	[3225] <u>3570</u>	[2225] <u>2570</u>	[1025] <u>1050</u>
22. Building paper and building-board mills	2661	[25] <u>50</u>	150	[175] <u>200</u>	[350] <u>400</u>	[200] <u>250</u>	[175] <u>200</u>
23. Alkalies and chlorine mfg.	2812	[25] <u>50</u>	275	[450] <u>515</u>	[750] <u>840</u>	[475] <u>565</u>	[300] <u>325</u>
24. Calcium carbide manufacturing	2819	[25] <u>50</u>	300	[550] <u>630</u>	[875] <u>980</u>	[575] <u>680</u>	[325] <u>350</u>
25. Nitric acid manufacturing	2819	[25] <u>50</u>	200	[225] <u>260</u>	[450] <u>510</u>	[250] <u>310</u>	[225] <u>250</u>
26. Ammonia manufacturing	2819	[25] <u>50</u>	200	[275] <u>315</u>	[500] <u>565</u>	[300] <u>365</u>	[225] <u>250</u>
27. Industrial inorganic and organic chemicals manufacturing (not elsewhere included)	2819	[25] <u>50</u>	250	[350] <u>400</u>	[625] <u>700</u>	[375] <u>450</u>	[275] <u>300</u>
28. Synthetic resin manufacturing	2819	[25] <u>50</u>	200	[200] <u>230</u>	[425] <u>480</u>	[225] <u>280</u>	[225] <u>250</u>
29. Charcoal manufacturing	2861	[25] <u>50</u>	275	[550] <u>630</u>	[850] <u>955</u>	[575] <u>680</u>	[300] <u>325</u>
30. Herbicide manufacturing	2879	[25] <u>50</u>	500	[2200] <u>2520</u>	[2725] <u>3070</u>	[2225] <u>2570</u>	[525] <u>550</u>

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
50. Nonferrous metals foundries	3361 [25] <u>50</u> 3362		125	[225] <u>260</u>	[375] <u>435</u>	[250] <u>310</u>	[150] <u>175</u>
51. Electroplating, polishing, and anodizing with 5 or more employees	3471 [25] <u>50</u>		100	[175] <u>200</u>	[300] <u>350</u>	[200] <u>250</u>	[125] <u>150</u>
52. Galvanizing and pipe coating--exclude all other activities	3479 [25] <u>50</u>		100	[175] <u>200</u>	[300] <u>350</u>	[200] <u>250</u>	[125] <u>150</u>
53. Battery manufacturing	3691 [25] <u>50</u>		125	[225] <u>260</u>	[375] <u>435</u>	[250] <u>310</u>	[150] <u>175</u>
54. Grain elevators--intermediate storage only, located in special control areas	4221						
a) 20,000 or more t/y	[25] <u>50</u>		175	[350] <u>400</u>	[550] <u>625</u>	[375] <u>450</u>	[200] <u>225</u>
b) Less than 20,000 t/y	[25] <u>50</u>		100	[175] <u>200</u>	[300] <u>350</u>	[200] <u>250</u>	[125] <u>150</u>
55. Electric power generation	4911						
a) Greater than 25MW	[25] <u>50</u>		1000	[1100] <u>1260</u>	[2125] <u>2310</u>	[1125] <u>1310</u>	[1025] <u>1050</u>
b) Less than 25MW	[25] <u>50</u>		350	[550] <u>630</u>	[925] <u>1030</u>	[575] <u>680</u>	[375] <u>400</u>
56. Gas production and/or mfg.	4925 [25] <u>50</u>		375	[275] <u>315</u>	[675] <u>740</u>	[300] <u>365</u>	[400] <u>425</u>
57. Grain elevators--terminal elevators primarily engaged in buying and/or marketing grain--in special control areas	5153						
a) 20,000 or more t/y	[25] <u>50</u>		500	[450] <u>515</u>	[975] <u>1065</u>	[475] <u>565</u>	[525] <u>550</u>
b) Less than 20,000 t/y	[25] <u>50</u>		150	[175] <u>200</u>	[350] <u>400</u>	[200] <u>250</u>	[175] <u>200</u>

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
43. Steel works, rolling and finishing mills, electrometallurgical products	3312 & 3313	[25] <u>50</u>	500	[400] <u>460</u>	[925] <u>1010</u>	[425] <u>510</u>	[525] <u>550</u>
44. Incinerators							
a) 1000 lbs/hr and greater capacity		[25] <u>50</u>	300	[175] <u>200</u>	[500] <u>550</u>	[200] <u>250</u>	[325] <u>350</u>
b) 40 lbs/hr to 1000 lbs/hr capacity		[25] <u>50</u>	100	[85] <u>100</u>	[210] <u>250</u>	[110] <u>150</u>	[125] <u>150</u>
45. Gray iron and steel foundries	3321						
Malleable iron foundries	3322						
Steel investment foundries	3324						
Steel foundries (not elsewhere classified)	3325	[25]					
a) 3,500 or more t/y production		[25] <u>50</u>	500	[450] <u>515</u>	[975] <u>1065</u>	[475] <u>565</u>	[525] <u>550</u>
b) Less than 3,500 t/y production		[25] <u>50</u>	125	[225] <u>260</u>	[375] <u>435</u>	[250] <u>310</u>	[150] <u>175</u>
46. Primary aluminum production	3334	[25] <u>50</u>	1000	[2200] <u>2520</u>	[3225] <u>3570</u>	[2225] <u>2570</u>	[1025] <u>1050</u>
47. Primary smelting of zirconium or hafnium	3339	[25] <u>50</u>	5000	[2200] <u>2520</u>	[7225] <u>7570</u>	[2225] <u>2570</u>	[5025] <u>5050</u>
48. Primary smelting and refining of ferrous and nonferrous metals (not elsewhere classified)	3339						
a) 2,000 or more t/y production		[25] <u>50</u>	500	[1100] <u>1260</u>	[1625] <u>1810</u>	[1125] <u>1310</u>	[525] <u>550</u>
b) Less than 2,000 t/y production		[25] <u>50</u>	100	[275] <u>315</u>	[400] <u>465</u>	[300] <u>365</u>	[125] <u>150</u>
49. Secondary smelting and refining of nonferrous metals	3341	[25] <u>50</u>	225	[275] <u>315</u>	[375] <u>590</u>	[300] <u>365</u>	[250] <u>275</u>

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
<u>60. Fuel burning equipment outside the boundaries of the Portland, Eugene-Springfield and Medford-Ashland Air Quality Maintenance Areas and the Salem Urban Growth Area.</u>	<u>4961**</u>						
					<u>(Fees will be based on the total aggregate heat input of all boilers at the site.)</u>		
<u>All wood, coal and oil fired greater than 30 x 10⁶ btu/hr (heat input)</u>		<u>50</u>	<u>100</u>	<u>85</u>	<u>235</u>	<u>135</u>	<u>150</u>
<u>61. New sources not listed above which would emit 10 or more tons per year of any air contaminants including but not limited to particulates, SO_x, NO_x or hydrocarbons, if the source were to operate uncontrolled.</u>		<u>****</u>	<u>****</u>	<u>****</u>	<u>****</u>		<u>****</u>
<u>62. New sources not listed above which would emit significant malodorous emissions, as determined by Departmental or Regional Authority review of sources which are known to have similar air contaminant emissions.</u>		<u>****</u>	<u>****</u>	<u>****</u>	<u>****</u>		<u>****</u>
<u>63. Existing sources not listed above for which an air quality problem is identified by the Department or Regional Authority.</u>		<u>****</u>	<u>****</u>	<u>****</u>	<u>****</u>		<u>****</u>

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
58. Fuel Burning equipment within the boundaries of the Portland, Eugene-Springfield and Medford-Ashland Air Quality Maintenance Areas and the Salem Urban Growth Area***							
[a] Residual oil fired, wood fired or coal fired							
[1] a) 250 million or more btu/hr (heat input)	4961**	[25] 50	150	[175] 200	[350] 400	[200] 250	[175] 200
[2] b) 5 million or more but less than 250 million btu/hr (heat input)		[25] 50	100	[100] 115	[225] 265	[125] 165	[125] 150
[3] c) Less than 5 million btu/hr (heat input)		[25] 50	25	[75] 85	[125] 160	[100] 135	[50] 75
59. <u>Fuel burning equipment within the boundaries of the Portland, Eugene-Springfield and Medford-Ashland Air Quality Maintenance Areas and the Salem Urban Growth Area ***</u>							
[b] Distillate Oil Fired							
[1] a) 250 million or more btu/hr (heat input)		[25] 50	150	[175] 200	[350] 400	[200] 250	[175] 200
[2] b) 5 million or more but less than 250 million btu/hr (heat input)		[25] 50	25	[75] 85	[125] 160	[100] 135	[50] 75

* Excluding hydroelectric and nuclear generating projects, and limited to utilities.

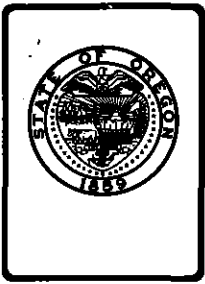
** Including fuel burning equipment generating steam for process or for sale but excluding power generation (SIC 4911).

*** Maps of these areas are attached. Legal descriptions are on file in the Department.

**** Sources required to obtain a permit under items 61, 62, and 63 will be subject to the following fee schedule to be applied by the Department based upon the anticipated cost of processing and compliance determination.

<u>Estimated Permit Cost</u>	<u>Application Processing Fee</u>	<u>Annual Compliance Determination Fee</u>
<u>Low cost</u>	<u>\$100.00 - \$250.00</u>	<u>\$100.00 - \$250.00</u>
<u>Medium cost</u>	<u>\$250.00 - \$1500.00</u>	<u>\$250.00 - \$1000.00</u>
<u>High cost</u>	<u>\$1500.00 - \$3000.00</u>	<u>\$1000.00 - \$3000.00</u>

As nearly as possible, applicable fees shall be consistent with sources of of similar complexity as listed in Table A.



Environmental Quality Commission

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item No. G2, June 29, 1979, EQC Meeting

Air Contaminant Discharge Permit Rules - Proposed adoption of amendment to air contaminant discharge permit fee schedule OAR 340-20-155 Table A, and amendment of OAR 340-20-175 to allow exemption from Notice of Construction requirements when required information is submitted with permit application for new or modified sources.

Background and Problem Statement

Fee Change:

Based upon a legislative review of the proposed 79-81 biennial budget, the Department was instructed to increase the revenues received from Air Contaminant Discharge Permit fees. In order to increase biennial revenues, individual fees must be increased.

Procedural Rule Change:

For new sources and modifications which significantly increase emissions, current procedures require the submission of both a Notice of Construction form and a Permit Application. The Department has proposed a change which would exempt new or modified sources from submitting a Notice of Construction form and from following associated procedures if a completed Permit Application has been received.

The Department has proposed an addition to OAR 340-20-180 which cites the applicable rules concerning registration.

The Commission is authorized by ORS 468.065(2) to establish a permit fee schedule.



Contains
Recycled
Materials

The "Statement of Need for Rulemaking" is attached.

Alternatives and Evaluation

A budget note in the 1977-79 Biennial Budget instructed the Department to increase permit fee revenues at the same inflation rate experienced by General Fund programs.

Retaining the current fee schedule or one lower than the proposed would result in biennial income below that necessary to carry out the legislatively approved program.

The permit fee revenues are used to support a portion of the permit program. As required by ORS 468.065(2), the fees are set in accordance with the cost to the Department of filing and investigating the application, issuing or denying the permit and determining compliance or noncompliance with the permit. Since the Department does not anticipate any significant changes in the emphasis or level of the permit program, the budget note and requirements of the statutes are compatible.

In 1978 the Department projected revenues of \$560,000 from the current fee schedule during the 79-81 biennium. In accordance with the budget note, revenues should be increased by approximately \$84,000 assuming an inflation rate of 15%.

Therefore the Department has proposed a budget which would result in a spending limitation of \$644,000 from air permit fees. The Department initially proposed a fee schedule for the June 21, 1979, public hearing which would generate \$644,000. Because recent estimates projected only \$540,000 from the current schedule instead of \$560,000, the actual average increase in individual fees was 16.5%.

In preparing the proposed fee schedule, the Department met several times with Air Permit Fees Task Force. At the last meeting the Task Force recommended that the fees be increased by only 7% each year or an equivalent of 14.5% for the biennium. In accordance with the Task Force recommendation the Department recommended a revised fee schedule at the public hearing held on June 21, 1979.

The annual fees in the recommended schedule are the current fees plus 14.5%. In addition, the Filing Fee has been increased to \$50. This schedule will generate approximately \$625,000 during the biennium from sources currently under permit. There may be additional income from new or modified sources but the amount is impossible to predict and therefore has not been budgeted.

The Department has also proposed a change to the rules for Air Contaminant Discharge Permits which would exempt sources from submitting a Notice of Construction and those procedural requirements if a completed Permit

Application has been filed. Under current rules new or modified sources which require a Permit Application are also required to submit a Notice of Construction (NC). The Department's procedures require that applications and NCs be logged, acknowledged, tracked, evaluated, and processed separately. Since the same information is evaluated in each case much duplication results. By adding an exemption similar to the exemption from registration, (340-20-180), the Department will be able to reduce the manpower necessary to process new and modified sources and eliminate the duplicated information currently required of sources.

The existing rule which exempts sources from registration procedures if the source operates under permit (OAR 340-20-180) only cited the Oregon Revised Statute which authorized registration. The Department has Proposed to add the section and number of the Oregon Administrative Rules (OAR 340-20-005, 010 and 015) which were adopted pursuant to ORS 468.320 classification of air contamination sources; registration and reporting of sources.

A public hearing concerning the proposed rule changes was held on June 21, 1979. The Department recommended changes to the fee schedule and the Notice of Construction exemption. The testimony received at the hearing did not reveal any flaws in the proposed schedule or rule change.

Summation

- 1) The Department was instructed by the Legislative Committee to increase permit fee revenues by the same inflation factor experienced by general fund programs.
- 2) The Air Permit Fees Task Force recommended an across the board increase in annual fees of 14.5% and an increase in the Filing Fee to \$50. This fee schedule would generate approximately \$625,000.
- 3) The Department proposed the Task Force's recommended changes at the public hearing and no adverse testimony was received.
- 4) By adding the Notice of Construction exemption proposed as 340-20-175, the Department can reduce the paperwork associated with the processing and evaluation of new or modified sources.

Directors Recommendation

Based upon the summation, I recommend that OAR 340-20-155, 165,175 and 180 amended in the attached proposed regulation be adopted.

Bill

E. J. Weathersbee:jl
229-5397
June 14, 1979

WILLIAM H. YOUNG

- Attachments
- 1) Attached Proposed Regulation
 - 2) Statement of Need for Rulemaking
 - 3) Hearing Officer's Report

SUGGESTED CHANGES TO THE FEES PROPOSED FOR THE PUBLIC HEARING ON JUNE 21, 1979

TABLE A
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE [FOR 1976 CALENDAR YEAR]

(340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
1. Seed cleaning located in special control areas, commercial operations only (not elsewhere included)	0723	[25] <u>50</u>	75	[85] <u>100</u>	[185] <u>225</u>	[110] <u>150</u>	[100] <u>125</u>
2. Smoke houses with 5 or more employees	2013	[25] <u>50</u>	75	[100] <u>115</u>	[200] <u>240</u>	[125] <u>165</u>	[100] <u>125</u>
3. Flour and other grain mill products in special control areas	2041						
a) 10,000 or more t/y		[25] <u>50</u>	250	[275] <u>315</u>	[550] <u>615</u>	[300] <u>365</u>	[275] <u>300</u>
b) Less than 10,000 t/y		[25] <u>50</u>	200	[110] <u>125</u>	[335] <u>375</u>	[135] <u>175</u>	[225] <u>250</u>
4. Cereal preparations in special control areas	2043	[25] <u>50</u>	250	[200] <u>230</u>	[475] <u>530</u>	[225] <u>280</u>	[275] <u>300</u>
5. Blended and prepared flour in special control areas	2045						
a) 10,000 or more t/y		[25] <u>50</u>	250	[200] <u>230</u>	[475] <u>530</u>	[225] <u>280</u>	[275] <u>300</u>
b) Less than 10,000 t/y		[25] <u>50</u>	200	[100] <u>115</u>	[325] <u>365</u>	[125] <u>165</u>	[225] <u>250</u>
6. Prepared feeds for animals and fowl in special control areas	2048						
a) 10,000 or more t/y		[25] <u>50</u>	250	[275] <u>315</u>	[550] <u>615</u>	[300] <u>365</u>	[275] <u>300</u>
b) Less than 10,000 t/y		[25] <u>50</u>	150	[110] <u>125</u>	[285] <u>325</u>	[135] <u>175</u>	[175] <u>200</u>

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
7. Beet sugar manufacturing	2063	[25] <u>50</u>	300	[1325] <u>1520</u>	[1650] <u>1820</u>	[1350] <u>1570</u>	[325] <u>350</u>
8. Rendering plants	2077						
a) 10,000 or more t/y		[25] <u>50</u>	200	[325] <u>375</u>	[550] <u>625</u>	[350] <u>425</u>	[225] <u>250</u>
b) Less than 10,000 t/y		[25] <u>50</u>	200	[225] <u>260</u>	[450] <u>510</u>	[250] <u>310</u>	[225] <u>250</u>
9. Coffee roasting	2095	[25] <u>50</u>	150	[175] <u>200</u>	[350] <u>400</u>	[200] <u>250</u>	[175] <u>200</u>
10. Sawmill and/or planing	2421						
a) 25,000 or more bd.ft./shift		[25] <u>50</u>	150	[275] <u>315</u>	[450] <u>515</u>	[300] <u>365</u>	[175] <u>200</u>
b) Less than 25,000 bd.ft./shift		[25] <u>50</u>	50	[175] <u>200</u>	[250] <u>300</u>	[200] <u>250</u>	[75] <u>100</u>
11. Hardwood mills	2426	[25] <u>50</u>	50	[175] <u>200</u>	[250] <u>300</u>	[200] <u>250</u>	[200] <u>100</u>
12. Shake and shingle mills	2429	[25] <u>50</u>	50	[175] <u>200</u>	[250] <u>300</u>	[200] <u>250</u>	[75] <u>100</u>
13. Mill work with 10 employees or more	2431	[25] <u>50</u>	125	[225] <u>260</u>	[375] <u>435</u>	[250] <u>310</u>	[150] <u>175</u>
14. Plywood manufacturing	2435 & 2436						
a) Greater than 25,000 sq.ft./hr, 3/8" basis		[25] <u>50</u>	500	[550] <u>630</u>	[1075] <u>1180</u>	[575] <u>680</u>	[525] <u>550</u>
b) Less than 25,000 sq.ft./hr, 3/8" basis		[25] <u>50</u>	350	[325] <u>375</u>	[700] <u>775</u>	[350] <u>425</u>	[375] <u>400</u>
15. Veneer manufacturing only (not elsewhere included)	2435 & 2436	[25] <u>50</u>	75	[175] <u>200</u>	[275] <u>325</u>	[200] <u>250</u>	[100] <u>125</u>
16. Wood preserving	2491	[25] <u>50</u>	125	[175] <u>200</u>	[325] <u>375</u>	[200] <u>250</u>	[150] <u>175</u>
17. Particleboard manufacturing	2492	[25] <u>50</u>	500	[550] <u>630</u>	[1075] <u>1180</u>	[575] <u>680</u>	[525] <u>550</u>

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
18. Hardboard manufacturing	2499	[25] <u>50</u>	500	[350] <u>630</u>	[1075] <u>1180</u>	[575] <u>680</u>	[525] <u>550</u>
19. Battery separator mfg.	2499	[25] <u>50</u>	75	[100] <u>115</u>	[200] <u>240</u>	[125] <u>165</u>	[100] <u>125</u>
20. Furniture and fixtures	2511						
a) 100 or more employees		[25] <u>50</u>	150	[275] <u>315</u>	[450] <u>515</u>	[300] <u>365</u>	[175] <u>200</u>
b) 10 employees or more but less than 100 employees		[25] <u>50</u>	100	[175] <u>200</u>	[300] <u>350</u>	[200] <u>250</u>	[125] <u>150</u>
21. Pulp mills, paper mills, and paperboard mills	2611 2621 2631	[25] <u>50</u>	1000	[2200] <u>2520</u>	[3225] <u>3570</u>	[2225] <u>2570</u>	[1025] <u>1050</u>
22. Building paper and building-board mills	2661	[25] <u>50</u>	150	[175] <u>200</u>	[350] <u>400</u>	[200] <u>250</u>	[175] <u>200</u>
23. Alkalies and chlorine mfg.	2812	[25] <u>50</u>	275	[459] <u>515</u>	[750] <u>840</u>	[475] <u>565</u>	[300] <u>325</u>
24. Calcium carbide manufacturing	2819	[25] <u>50</u>	300	[550] <u>630</u>	[875] <u>980</u>	[575] <u>680</u>	[325] <u>350</u>
25. Nitric acid manufacturing	2819	[25] <u>50</u>	200	[225] <u>260</u>	[450] <u>510</u>	[250] <u>310</u>	[225] <u>250</u>
26. Ammonia manufacturing	2819	[25] <u>50</u>	200	[275] <u>315</u>	[500] <u>565</u>	[300] <u>365</u>	[225] <u>250</u>
27. Industrial inorganic and organic chemicals manufacturing (not elsewhere included)	2819	[25] <u>50</u>	250	[350] <u>400</u>	[625] <u>700</u>	[375] <u>450</u>	[275] <u>300</u>
28. Synthetic resin manufacturing	2819	[25] <u>50</u>	200	[200] <u>230</u>	[425] <u>480</u>	[225] <u>280</u>	[225] <u>250</u>
29. Charcoal manufacturing	2861	[25] <u>50</u>	275	[550] <u>630</u>	[850] <u>955</u>	[575] <u>680</u>	[300] <u>325</u>
30. Herbicide manufacturing	2879	[25] <u>50</u>	500	[2200] <u>2520</u>	[2725] <u>3070</u>	[2225] <u>2570</u>	[525] <u>550</u>

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
31. Petroleum refining	2911	[25] <u>50</u>	1000	[2200] <u>2520</u>	[3225] <u>3570</u>	[2225] <u>2570</u>	[1025] <u>1050</u>
32. Asphalt production by distillation	2951	[25] <u>50</u>	200	[275] <u>275</u>	[500] <u>525</u>	[300] <u>325</u>	[225] <u>250</u>
33. Asphalt blowing plants	2951	[25] <u>50</u>	200	[350] <u>400</u>	[575] <u>650</u>	[375] <u>450</u>	[225] <u>250</u>
34. Asphaltic concrete paving plants	2951						
a) Stationary		[25] <u>50</u>	200	[225] <u>260</u>	[450] <u>510</u>	[250] <u>310</u>	[225] <u>250</u>
b) Portable		[25] <u>50</u>	200	[300] <u>345</u>	[525] <u>595</u>	[325] <u>395</u>	[225] <u>250</u>
35. Asphalt felts and coating	2952	[25] <u>50</u>	200	[450] <u>515</u>	[675] <u>765</u>	[475] <u>565</u>	[225] <u>250</u>
36. Blending, compounding, or refining of lubricating oils and greases	2992	[25] <u>50</u>	175	[225] <u>260</u>	[425] <u>485</u>	[250] <u>310</u>	[200] <u>225</u>
37. Glass container manufacturing	3221	[25] <u>50</u>	200	[350] <u>400</u>	[575] <u>650</u>	[375] <u>450</u>	[225] <u>250</u>
38. Cement manufacturing	3241	[25] <u>50</u>	625	[1650] <u>1890</u>	[2300] <u>2565</u>	[1675] <u>1940</u>	[650] <u>675</u>
39. Redimix concrete	3273	[25] <u>50</u>	75	[110] <u>125</u>	[210] <u>250</u>	[135] <u>175</u>	[100] <u>125</u>
40. Lime manufacturing	3274	[25] <u>50</u>	300	[175] <u>200</u>	[500] <u>550</u>	[200] <u>250</u>	[325] <u>350</u>
41. Gypsum products	3275	[25] <u>50</u>	150	[175] <u>200</u>	[350] <u>400</u>	[200] <u>250</u>	[175] <u>200</u>
42. Rock crusher	3295						
a) Stationary		[25] <u>50</u>	175	[225] <u>260</u>	[425] <u>485</u>	[250] <u>310</u>	[200] <u>225</u>
b) Portable		[25] <u>50</u>	175	[300] <u>345</u>	[500] <u>570</u>	[325] <u>395</u>	[200] <u>225</u>

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
43. Steel works, rolling and finishing mills, electrometallurgical products	3312 & 3313	[25] <u>50</u>	500	[400] <u>460</u>	[925] <u>1010</u>	[425] <u>510</u>	[525] <u>550</u>
44. Incinerators							
a) 1000 lbs/hr and greater capacity		[25] <u>50</u>	300	[175] <u>200</u>	[500] <u>550</u>	[200] <u>250</u>	[325] <u>350</u>
b) 40 lbs/hr to 1000 lbs/hr capacity		[25] <u>50</u>	100	[85] <u>100</u>	[210] <u>250</u>	[110] <u>150</u>	[125] <u>150</u>
45. Gray iron and steel foundries	3321						
Malleable iron foundries	3322						
Steel investment foundries	3324						
Steel foundries (not elsewhere classified)	3325	[25]					
a) 3,500 or more t/y production		[25] <u>50</u>	500	[450] <u>515</u>	[975] <u>1065</u>	[475] <u>565</u>	[525] <u>550</u>
b) Less than 3,500 t/y production		[25] <u>50</u>	125	[225] <u>260</u>	[375] <u>435</u>	[250] <u>310</u>	[150] <u>175</u>
46. Primary aluminum production	3334	[25] <u>50</u>	1000	[2200] <u>2520</u>	[3225] <u>3570</u>	[2225] <u>2570</u>	[1025] <u>1050</u>
47. Primary smelting of zirconium or hafnium	3339	[25] <u>50</u>	5000	[2200] <u>2520</u>	[7225] <u>7570</u>	[2225] <u>2570</u>	[5025] <u>5050</u>
48. Primary smelting and refining of ferrous and nonferrous metals (not elsewhere classified)	3339						
a) 2,000 or more t/y production		[25] <u>50</u>	500	[1100] <u>1260</u>	[1625] <u>1810</u>	[1125] <u>1310</u>	[525] <u>550</u>
b) Less than 2,000 t/y production		[25] <u>50</u>	100	[275] <u>315</u>	[400] <u>465</u>	[300] <u>365</u>	[125] <u>150</u>
49. Secondary smelting and refining of nonferrous metals	3341	[25] <u>50</u>	225	[225] <u>315</u>	[375] <u>1190</u>	[300] <u>365</u>	[250] <u>275</u>

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
50. Nonferrous metals foundries	3361 3362	[25] <u>50</u>	125	[225] <u>260</u>	[375] <u>435</u>	[250] <u>310</u>	[150] <u>175</u>
51. Electroplating, polishing, and anodizing with 5 or more employees	3471	[25] <u>50</u>	100	[175] <u>200</u>	[300] <u>350</u>	[200] <u>250</u>	[125] <u>150</u>
52. Galvanizing and pipe coating--exclude all other activities	3479	[25] <u>50</u>	100	[175] <u>200</u>	[300] <u>350</u>	[200] <u>250</u>	[125] <u>150</u>
53. Battery manufacturing	3691	[25] <u>50</u>	125	[225] <u>260</u>	[375] <u>435</u>	[250] <u>310</u>	[150] <u>175</u>
54. Grain elevators--intermediate storage only, located in special control areas	4221						
a) 20,000 or more t/y		[25] <u>50</u>	175	[350] <u>400</u>	[550] <u>625</u>	[375] <u>450</u>	[200] <u>225</u>
b) Less than 20,000 t/y		[25] <u>50</u>	100	[175] <u>200</u>	[300] <u>350</u>	[200] <u>250</u>	[125] <u>150</u>
55. Electric power generation	4911						
a) Greater than 25MW		[25] <u>50</u>	1000	[1100] <u>1260</u>	[2125] <u>2310</u>	[1125] <u>1310</u>	[1025] <u>1050</u>
b) Less than 25MW		[25] <u>50</u>	350	[550] <u>630</u>	[925] <u>1030</u>	[575] <u>680</u>	[375] <u>400</u>
56. Gas production and/or mfg.	4925	[25] <u>50</u>	375	[275] <u>315</u>	[675] <u>740</u>	[300] <u>365</u>	[400] <u>425</u>
57. Grain elevators--terminal elevators primarily engaged in buying and/or marketing grain--in special control areas	5153						
a) 20,000 or more t/y		[25] <u>50</u>	500	[450] <u>515</u>	[975] <u>1065</u>	[475] <u>565</u>	[525] <u>550</u>
b) Less than 20,000 t/y		[25] <u>50</u>	150	[175] <u>200</u>	[350] <u>400</u>	[200] <u>250</u>	[175] <u>200</u>

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
58. Fuel Burning equipment within the boundaries of the Portland, Eugene-Springfield and Medford-Ashland Air Quality Maintenance Areas and the Salem Urban Growth Area*** (Fees will be based on the total aggregate heat input of all boilers at the site)							
[a] Residual oil fired, wood fired or coal fired	4961**						
[1] a) 250 million or more btu/hr (heat input)		[25] 50	150	[175] 200	[350] 400	[200] 250	[175] 200
[2] b) 5 million or more but less than 250 million btu/hr (heat input)		[25] 50	100	[100] 115	[225] 265	[125] 165	[125] 150
[3] c) Less than 5 million btu/hr (heat input)		[25] 50	25	[75] 85	[125] 160	[100] 135	[50] 75
59. Fuel burning equipment within the boundaries of the Portland, Eugene-Springfield and Medford-Ashland Air Quality Maintenance Areas and the Salem Urban Growth Area ***							
[b] Distillate Oil Fired							
[1] a) 250 million or more btu/hr (heat input)		[25] 50	150	[175] 200	[350] 400	[200] 250	[175] 200
[2] b) 5 million or more but less than 250 million btu/hr (heat input)		[25] 50	25	[75] 85	[125] 160	[100] 135	[50] 75

* Excluding hydroelectric and nuclear generating projects, and limited to utilities.

** Including fuel burning equipment generating steam for process or for sale but excluding power generation (SIC 4911).

*** Maps of these areas are attached. Legal descriptions are on file in the Department.

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
<u>60. Fuel burning equipment outside the boundaries of the Portland, Eugene-Springfield and Medford-Ashland Air Quality Maintenance Areas and the Salem Urban Growth Area.</u>	<u>4961**</u>						
					<u>(Fees will be based on the total aggregate heat input of all boilers at the site.)</u>		
<u>All wood, coal and oil fired greater than 30 x 10⁶ btu/hr (heat input)</u>		<u>50</u>	<u>100</u>	<u>85</u>	<u>235</u>	<u>135</u>	<u>150</u>
<u>61. New sources not listed above which would emit 10 or more tons per year of any air contaminants including but not limited to particulates, SO_x, NO_x or hydrocarbons, if the source were to operate uncontrolled.</u>		<u>****</u>	<u>****</u>	<u>****</u>	<u>****</u>		<u>****</u>
<u>62. New sources not listed above which would emit significant malodorous emissions, as determined by Departmental or Regional Authority review of sources which are known to have similar air contaminant emissions.</u>		<u>****</u>	<u>****</u>	<u>****</u>	<u>****</u>		<u>****</u>
<u>63. Existing sources not listed above for which an air quality problem is identified by the Department or Regional Authority.</u>		<u>****</u>	<u>****</u>	<u>****</u>	<u>****</u>		<u>****</u>

**** Sources required to obtain a permit under items 61, 62, and 63 will be subject to the following fee schedule to be applied by the Department based upon the anticipated cost of processing and compliance determination.

<u>Estimated Permit Cost</u>	<u>Application Processing Fee</u>	<u>Annual Compliance Determination Fee</u>
<u>Low cost</u>	<u>\$100.00 - \$250.00</u>	<u>\$100.00 - \$250.00</u>
<u>Medium cost</u>	<u>\$250.00 - \$1500.00</u>	<u>\$250.00 - \$1000.00</u>
<u>High cost</u>	<u>\$1500.00 - \$3000.00</u>	<u>\$1000.00 - \$3000.00</u>

As nearly as possible, applicable fees shall be consistent with sources of of similar complexity as listed in Table A.

STATEMENT OF NEED FOR RULE MAKING

Pursuant to ORS 183.335(7), this statement provides information on the Environmental Quality Commission's intended action to adopt a rule.

Legal Authority

ORS 468.065(2) authorizes the Commission to establish a schedule of permit fees based upon the cost of filing and investigating the application of issuing or denying the permit and of determining compliance with the permit.

ORS 468.325 authorizes the Commission to require a Notice of Construction and submission of plans for any new source.

Need for the Rule

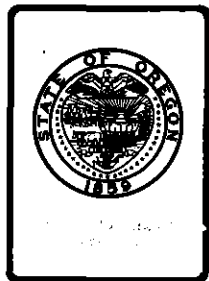
The proposed rule is a modification of the existing Table A. The individual fees would be increased based upon inflation.

The exemption from the requirements for Notice of Construction when a completed permit application has been submitted will reduce the manpower necessary to complete the review of a new source.

Principle Documents Relied Upon in this Rulemaking

- 1) OAR 340-20-155, Table A
- 2) The Department's Biennial Budget for 1977 to 1979

F.A. Skirvin
229-6414



Attachment 3

Environmental Quality Commission

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Hearing Officer

Subject: Hearing Report on the June 21, 1979 Public Hearing
to Consider Modifications to the Rules for Air
Contaminant Discharge Permits

Summary of Procedure

Pursuant to public notice, a public hearing was convened in the Multnomah County Courthouse, Room 602 at 2:00 pm on June 21, 1979. The purpose was to receive testimony regarding the modification of rules for Air Contaminant Discharge Permit fees and an exemption from Notice of Construction rules.

Summary of Testimony

Don Jackson, Jackson-Silvaco, Springfield, testified in opposition to the permit fee increase because of the inflationary nature of the fee increases.

No other testimony was received.

The Department recommended changes to the proposed fee schedule and to the proposed regulation wording. The annual compliance determination fees were changed to reflect a 14.5 percent increase in individual fees. The wording of OAR 340-20-175 was modified to clarify the Department intent to exempt a source from Notice of Construction procedures if a completed permit application has been received as suggested by the Department's legal counsel.

EW:jo
229-6480
June 22, 1979
Attachment 2



Contains
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OREGON ADMINISTRATIVE RULES
CHAPTER 340 - DEPARTMENT OF ENVIRONMENTAL QUALITY

Air Contaminant Discharge Permits

Purpose

340-20-140 The purpose of these rules is to prescribe the requirements and procedures for obtaining Air Contaminant Discharge Permits pursuant to ORS 468.310 to 468.330 and related statutes for stationary sources.

Statutory Authority:

Hist: Filed 8-31-72 as DEQ 47,
Eff. 9-15-72
Amended 12-20-73 by DEQ 63,
Eff. 1-11-74
Amended by DEQ 107,
Filed and Eff. 1-6-76
Renumbered from 340-20-033.02

Definitions

340-20-145 As used in these rules, unless otherwise required by context:

- (1) "Department" means Department of Environmental Quality.
- (2) "Commission" means Environmental Quality Commission.
- (3) "Person" means the United States Government and agencies thereof, any state, individual, public or private corporation, political subdivision, governmental agency, municipality, industry, co-partnership, association, firm, trust, estate, or any other legal entity whatever.
- (4) "Permit" or "Air Contaminant Discharge Permit" means a written permit issued by the Department or Regional Authority in accordance with duly adopted procedures, which by its conditions authorizes the permittee to construct, install, modify, or operate specified facilities, conduct specified activities, or emit, discharge, or dispose of air contaminants in accordance with specified practices, limitations, or prohibitions.
- (5) "Regional Authority" means Lane Regional Air Pollution Authority.

Statutory Authority:

Hist: Filed 8-31-72 as DEQ 47,
Eff. 9-15-72
Amended 12-20-73 by DEQ 63,
Eff. 1-11-74

Amended by DEQ 107,
Filed and Eff. 1-6-76
Renumbered from 340-20-033.04

Notice Policy

340-20-150 It shall be the policy of the Department and the Regional Authority to issue public notice as to the intent to issue an Air Contaminant Discharge Permit allowing at least thirty (30) days for written comment from the public, and from interested State and Federal agencies, prior to issuance of the permit.

Statutory Authority:

Hist: Filed 8-31-72 as DEQ 47
Eff. 9-15-72
Amended 12-20-73 by DEQ 63,
Eff. 1-11-74
Amended by DEQ 107,
Filed and Eff. 1-6-76
Renumbered from 340-20-033.06

Permit Required

340-20-155 (1) No person shall construct, install, establish, develop or operate any air contaminant source which is referred to in Table A, appended hereto and incorporated herein by reference, without first obtaining a permit from the Department or Regional Authority.

(2) No person shall modify any source covered by a permit under these rules such that the emissions are significantly increased without first applying for and obtaining a modified permit.

(3) No person shall modify any source covered by a permit under these rules such that:

(a) The process equipment is substantially changed or added to; or

(b) The emissions are significantly changed without first notifying the Department.

(4) Any source may apply to the Department or Regional Authority for a special letter permit if operating a facility with no, or insignificant, air contaminant discharges. The determination of applicability of this special permit shall be made solely by the Department or Regional Authority having jurisdiction. If issued a special permit, the application processing fee and/or annual compliance determination fee, provided by OAR 340-20-165, may be waived by the Department or Regional Authority.

(5) The Department may designate any source as a "Minimal Source" based upon the following criteria:

- (a) Quantity and quality of emissions;
- (b) Type of operation;
- (c) Compliance with Department regulations; and
- (d) Minimal impact on the air quality of the surrounding region. If a source is designated as a minimal source, the annual compliance determination fee, provided by rule 340-20-165, will be collected in conjunction with plant site compliance inspections which will occur no less frequently than every five (5) years.

Statutory Authority:

Hist: Filed 8-31-72 as DEQ 47,
Eff. 9-15-72
Amended 12-20-73 by DEQ 63,
Eff. 1-11-74
Amended by DEQ 107,
Filed and eff. 1-6-76
Renumbered from 340-20-033.08
Amended by DEQ 125,
Filed and Eff. 12-16-76

Multiple-Source Permit

340-20-160 When a single site includes more than one air contaminant source, a single permit may be issued including all sources located at the site. For uniformity such applications shall separately identify by subsection each air contaminant source included from Table A.

(1) When a single air contaminant source which is included in a multiple-source permit, is subject to permit modification, revocation, suspension, or denial, such action by the Department or Regional Authority shall only affect that individual source without thereby affecting any other source subject to the permit.

(2) When a multiple-source permit includes air contaminant sources subject to the jurisdiction of the Department and the Regional Authority, the Department may require that it shall be the permit issuing agency. In such cases, the Department and the Regional Authority shall otherwise maintain and exercise all other aspects of their respective jurisdictions over the permittee.

Statutory Authority:

Hist: Filed 8-31-72 as DEQ 47,
Eff. 9-15-72
Amended 12-20-73 by DEQ 63,
Eff. 1-11-74
Amended by DEQ 107,
Filed and Eff. 1-6-76
Renumbered from 340-20-003.10

Fees

340-20-165 (1) All persons required to obtain a permit shall be subject to a three part fee consisting of a uniform non-refundable filing fee of [~~\$25.00~~] \$50.00, an application processing fee, and an annual compliance determination fee which are determined by applying Table A. The amount equal to the filing fee, application processing fee, and the annual compliance determination fee shall be submitted as a required part of any application for a new permit. The amount equal to the filing fee and the application processing fee shall be submitted with any application for modification of a permit. The amount equal to the filing fee and the annual compliance determination fee shall be submitted with any application for a renewed permit.

(2) The fee schedule contained in the listing of air contaminant sources in Table A shall be applied to determine the permit fees, on a Standard Industrial Classification (SIC) plant site basis.

(3) Modifications of existing, unexpired permits which are instituted by the Department or Regional Authority due to changing conditions or standards, receipts or additional information, or any other reason pursuant to applicable statutes and do not require refileing or review of an application or plans and specifications shall not require submission of the filing fee or the application processing fee.

(4) Applications for multiple-source permits received pursuant to OAR 340-20-160 shall be subject to a single [~~\$25.00~~] \$50.00 filing fee. The application processing fee and annual compliance determination fee for multiple-source permits shall be equal to the total amounts required by the individual sources involved, as listed in Table A.

(5) The annual compliance determination fee shall be paid at least 30 days prior to the start of each subsequent permit year. Failure to timely remit the annual compliance determination fee in accordance with the above shall be considered grounds for not issuing a permit or revoking an existing permit.

(6) If a permit is issued for a period less than one (1) year, the applicable annual compliance determination fee shall be equal to the full annual fee. If a permit is issued for a period greater than 12 months, the applicable annual compliance determination fee shall be prorated by multiplying the annual compliance determination fee by the number of months covered by the permit and dividing by twelve (12).

(7) In no case shall a permit be issued for more than ten (10) years.

(8) Upon accepting an application for filing, the filing fee shall be non-refundable.

(9) When an air contaminant source which is in compliance with the rules of a permit issuing agency relocates or proposes to relocate its operation to a site in the jurisdiction of another permit issuing agency having comparable control requirements, application may be made and approval may be given for an exemption of the application processing fee. The permit application and the request for such fee reduction shall be accompanied by:

(a) A copy of the permit issued for the previous location; and

(b) Certification that the permittee proposes to operate with the same equipment, at the same production rate, and under similar conditions at the new or proposed location. Certification by the agency previously having jurisdiction that the source was operated in compliance with all rules and regulations will be acceptable should the previous permit not indicate such compliance.

(10) If a temporary or conditional permit is issued in accordance with adopted procedures, fees submitted with the application for an air contaminant discharge permit shall be retained and be applicable to the regular permit when it is granted or denied.

(11) All fees shall be made payable to the permit issuing agency.

Statutory Authority:

Hist: Filed 8-31-72 as DEQ 47,
Eff. 9-15-72
Amended 12-20-73 by DEQ 63,
Eff. 1-11-74
Amended by DEQ 107,
Filed and Eff. 1-6-76
Renumbered from 340-20-033.12
Amended by DEQ 125,
Filed and Eff. 12-16-76

Procedures for Obtaining Permits

340-20-170 Submission and processing of applications for permits and issuance, denial, modification, and revocation, of permits shall be in accordance with duly adopted procedures of the permit issuing agency.

Statutory Authority:

Hist: Filed 8-31-72 as DEQ 47,
Eff. 9-15-72
Amended 12-20-73 by DEQ 63,
Eff. 1-11-74
Renumbered from 340-20-033.14

Other Requirements

340-20-175 [(1) No person shall construct, install, establish, modify, or enlarge any air contaminant source requiring an air contaminant discharge permit or facilities for controlling, treating, or otherwise limiting air contaminant emissions from air contaminant sources requiring an air contaminant discharge permit without notifying the permit issuing agency as required by ORS 468.325 and rules promulgated thereunder (Notice of Construction).]

[(2) Prior to construction, installation, establishment, modification, or enlargement of any air contaminant source requiring an air contaminant discharge permit or modification of an air contaminant discharge permit or facilities for controlling, treating, or otherwise limiting air contaminant emissions from air contaminant sources requiring an air contaminant discharge permit, detailed plans and specifications shall be submitted to and approved in writing by the Department or Regional Authority upon request as required by ORS 468.325 and rules promulgated thereunder (Notice of Construction).]

(1) Any person intending to obtain an Air Contaminant Discharge Permit to construct, install, or establish a new or modified source of air contaminant emissions as required in 340-20-155 shall submit a completed application on forms provided by the Department or at least the following information:

- (a) Name, address, and nature of business.
 - (b) A description of the production processes and a related flow chart.
 - (c) A plot plan showing location of all air contaminant sources and the nearest residential or commercial property.
 - (d) Type and quantity of fuels used.
 - (e) Amount, nature, and duration of emissions.
 - (f) Estimated efficiency of air pollution control equipment.
- (2) Any person complying with Section (1) above shall be exempted from complying with the notice of construction requirements of OAR 340-20-020 and 030.

Statutory Authority:

Hist: Filed 8-31-72 as DEQ 47,
Eff. 1-11-74
Amended by DEQ 107,
Filed and Eff. 1-6-76
Renumbered from 340-20-033.16

Registration Exemption

340-20-180 Air contaminant sources constructed and operated under a permit issued pursuant to these regulations shall be exempted from registration as required by [rules adopted pursuant to] ORS 468.320 and OAR 340-20-005, 010 and 015.

Statutory Authority:

Hist: Filed 8-31-72 as DEQ 47,
Eff. 9-15-72
Amended by DEQ 107,
Filed and Eff. 1-6-76
Renumbered from 340-20-033.18

Permit Program for Regional Air Pollution Authority

340-20-185 Subject to the provisions of this rule, the Commission authorizes the Regional Authority to issue, modify, renew, suspend, and revoke air contaminant discharge permits for air contamination sources within its jurisdiction.

- (1) Each permit proposed to be issued or modified by the Regional Authority shall be submitted to the Department at least thirty (30) days prior to the proposed issuance date.

(2) A copy of each permit issued, modified, or revoked by the Regional Authority shall be promptly submitted to the Department.

Statutory Authority:

Hist: Filed 8-31-72 as DEQ 47,
Eff. 9-15-72
Amended 12-20-73 by DEQ 63,
Eff. 1-11-74
Amended by DEQ 107,
Filed and Eff. 1-6-76
Renumbered from 340-20-033.20

OA23]0.2
6-7-79

JUN 29 1979

SUGGESTED CHANGES TO THE FEES PROPOSED FOR THE PUBLIC HEARING ON JUNE 21, 1979

TABLE A
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE [FOR 1976 CALENDAR YEAR]

(340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classifica- tion Number	Filing Fee	Application Processing Fee	Annual Compliance Determina- tion Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Applica- tion to Modify Permit
1. Seed cleaning located in special control areas, commercial operations only (not elsewhere included)	0723	[25] <u>50</u>	75	[85] <u>100</u>	[185] <u>225</u>	[110] <u>150</u>	[100] <u>125</u>
2. Smoke houses with 5 or more employees	2013	[25] <u>50</u>	75	[100] <u>115</u>	[200] <u>240</u>	[125] <u>165</u>	[100] <u>125</u>
3. Flour and other grain mill products in special control areas 2041							
a) 10,000 or more t/y		[25] <u>50</u>	250	[275] <u>315</u>	[550] <u>615</u>	[300] <u>365</u>	[275] <u>300</u>
b) Less than 10,000 t/y		[25] <u>50</u>	200	[110] <u>125</u>	[335] <u>375</u>	[135] <u>175</u>	[225] <u>250</u>
4. Cereal preparations in special control areas	2043	[25] <u>50</u>	250	[200] <u>230</u>	[475] <u>530</u>	[225] <u>280</u>	[275] <u>300</u>
5. Blended and prepared flour in special control areas	2045						
a) 10,000 or more t/y		[25] <u>50</u>	250	[200] <u>230</u>	[475] <u>530</u>	[225] <u>280</u>	[275] <u>300</u>
b) Less than 10,000 t/y		[25] <u>50</u>	200	[100] <u>115</u>	[325] <u>365</u>	[125] <u>165</u>	[225] <u>250</u>
6. Prepared feeds for animals and fowl in special control areas	2048						
a) 10,000 or more t/y		[25] <u>50</u>	250	[275] <u>315</u>	[550] <u>615</u>	[300] <u>365</u>	[275] <u>300</u>
b) Less than 10,000 t/y		[25] <u>50</u>	150	[110] <u>125</u>	[285] <u>325</u>	[135] <u>175</u>	[175] <u>200</u>

1-Table

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application		Fees to be Submitted with Renewal Application		Fee to be Submitted with Application to Modify Permit	
7. Beet sugar manufacturing	2063	[25] <u>50</u>	300	[1325] <u>1520</u>	[1650] <u>1820</u>	[1350] <u>1570</u>	[325] <u>350</u>			
8. Rendering plants	2077									
a) 10,000 or more t/y		[25] <u>50</u>	200	[325] <u>375</u>	[550] <u>625</u>	[350] <u>425</u>	[225] <u>250</u>			
b) Less than 10,000 t/y		[25] <u>50</u>	200	[225] <u>260</u>	[450] <u>510</u>	[250] <u>310</u>	[225] <u>250</u>			
9. Coffee roasting	2095	[25] <u>50</u>	150	[175] <u>200</u>	[350] <u>400</u>	[200] <u>250</u>	[175] <u>200</u>			
10. Sawmill and/or planing	2421									
a) 25,000 or more bd.ft./shift		[25] <u>50</u>	150	[275] <u>315</u>	[450] <u>515</u>	[300] <u>365</u>	[175] <u>200</u>			
b) Less than 25,000 bd.ft./shift		[25] <u>50</u>	50	[175] <u>200</u>	[250] <u>300</u>	[200] <u>250</u>	[75] <u>100</u>			
11. Hardwood mills	2426	[25] <u>50</u>	50	[175] <u>200</u>	[250] <u>300</u>	[200] <u>250</u>	[200] <u>100</u>			
12. Shake and shingle mills	2429	[25] <u>50</u>	50	[175] <u>200</u>	[250] <u>300</u>	[200] <u>250</u>	[75] <u>100</u>			
13. Mill work with 10 employees or more	2431	[25] <u>50</u>	125	[225] <u>260</u>	[375] <u>435</u>	[250] <u>310</u>	[150] <u>175</u>			
14. Plywood manufacturing	2435 & 2436									
a) Greater than 25,000 sq.ft./hr, 3/8" basis		[25] <u>50</u>	500	[550] <u>630</u>	[1075] <u>1180</u>	[575] <u>680</u>	[525] <u>550</u>			
b) Less than 25,000 sq.ft./hr, 3/8" basis		[25] <u>50</u>	350	[325] <u>375</u>	[700] <u>775</u>	[350] <u>425</u>	[375] <u>400</u>			
15. Veneer manufacturing only (not elsewhere included)	2435 & 2436	[25] <u>50</u>	75	[175] <u>200</u>	[275] <u>325</u>	[200] <u>250</u>	[100] <u>125</u>			
16. Wool preserving	2491	[25] <u>50</u>	125	[175] <u>200</u>	[325] <u>375</u>	[200] <u>250</u>	[150] <u>175</u>			
17. Particleboard manufacturing	2492	[25] <u>50</u>	500	[550] <u>630</u>	[1075] <u>1180</u>	[575] <u>680</u>	[525] <u>550</u>			

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2-Table

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
18. Hardboard manufacturing	2499	[25] <u>50</u>	500	[350] <u>630</u>	[1075] <u>1180</u>	[575] <u>680</u>	[525] <u>550</u>
19. Battery separator mfg.	2499	[25] <u>50</u>	75	[100] <u>115</u>	[200] <u>240</u>	[125] <u>165</u>	[100] <u>125</u>
20. Furniture and fixtures	2511						
a) 100 or more employees		[25] <u>50</u>	150	[275] <u>315</u>	[450] <u>515</u>	[300] <u>365</u>	[175] <u>200</u>
b) 10 employees or more but less than 100 employees		[25] <u>50</u>	100	[175] <u>200</u>	[300] <u>350</u>	[200] <u>250</u>	[125] <u>150</u>
21. Pulp mills, paper mills, and paperboard mills	2611 2621 2631	[25] <u>50</u>	1000	[2200] <u>2520</u>	[3225] <u>3570</u>	[2225] <u>2570</u>	[1025] <u>1050</u>
22. Building paper and building-board mills	2661	[25] <u>50</u>	150	[175] <u>200</u>	[350] <u>400</u>	[200] <u>250</u>	[175] <u>200</u>
23. Alkalies and chlorine mfg.	2812	[25] <u>50</u>	275	[450] <u>515</u>	[750] <u>840</u>	[475] <u>565</u>	[300] <u>325</u>
24. Calcium carbide manufacturing	2819	[25] <u>50</u>	300	[550] <u>630</u>	[875] <u>980</u>	[575] <u>680</u>	[325] <u>350</u>
25. Nitric acid manufacturing	2819	[25] <u>50</u>	200	[225] <u>260</u>	[450] <u>510</u>	[250] <u>310</u>	[225] <u>250</u>
26. Ammonia manufacturing	2819	[25] <u>50</u>	200	[275] <u>315</u>	[500] <u>565</u>	[300] <u>365</u>	[225] <u>250</u>
27. Industrial inorganic and organic chemicals manufacturing (not elsewhere included)	2819	[25] <u>50</u>	250	[350] <u>400</u>	[625] <u>700</u>	[375] <u>450</u>	[275] <u>300</u>
28. Synthetic resin manufacturing	2819	[25] <u>50</u>	200	[200] <u>230</u>	[425] <u>480</u>	[225] <u>280</u>	[225] <u>250</u>
29. Charcoal manufacturing	2861	[25] <u>50</u>	275	[550] <u>630</u>	[850] <u>955</u>	[575] <u>680</u>	[300] <u>325</u>
30. Herbicide manufacturing	2879	[25] <u>50</u>	500	[2200] <u>2520</u>	[2725] <u>3070</u>	[2225] <u>2570</u>	[525] <u>550</u>

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3-Table

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
31. Petroleum refining	2911	[25] <u>50</u>	1000	[2200] <u>2520</u>	[3225] <u>3570</u>	[2225] <u>2570</u>	[1025] <u>1050</u>
32. Asphalt production by distillation	2951	[25] <u>50</u>	200	[275] <u>315</u>	[500] <u>525</u>	[300] <u>325</u>	[225] <u>250</u>
33. Asphalt blowing plants	2951	[25] <u>50</u>	200	[350] <u>400</u>	[575] <u>650</u>	[375] <u>450</u>	[225] <u>250</u>
34. Asphaltic concrete paving plants	2951						
a) Stationary		[25] <u>50</u>	200	[225] <u>260</u>	[450] <u>510</u>	[250] <u>310</u>	[225] <u>250</u>
b) Portable		[25] <u>50</u>	200	[300] <u>345</u>	[525] <u>595</u>	[325] <u>395</u>	[225] <u>250</u>
35. Asphalt felts and coating	2952	[25] <u>50</u>	200	[450] <u>515</u>	[675] <u>765</u>	[475] <u>565</u>	[225] <u>250</u>
36. Blending, compounding, or refining of lubricating oils and greases	2992	[25] <u>50</u>	175	[225] <u>260</u>	[425] <u>485</u>	[250] <u>310</u>	[200] <u>225</u>
37. Glass container manufacturing	3221	[25] <u>50</u>	200	[350] <u>400</u>	[575] <u>650</u>	[375] <u>450</u>	[225] <u>250</u>
38. Cement manufacturing	3241	[25] <u>50</u>	625	[1650] <u>1890</u>	[2300] <u>2565</u>	[1675] <u>1940</u>	[650] <u>675</u>
39. Redimix concrete	3273	[25] <u>50</u>	75	[110] <u>125</u>	[210] <u>250</u>	[135] <u>175</u>	[100] <u>125</u>
40. Lime manufacturing	3274	[25] <u>50</u>	300	[175] <u>200</u>	[500] <u>550</u>	[200] <u>250</u>	[325] <u>350</u>
41. Gypsum products	3275	[25] <u>50</u>	150	[175] <u>200</u>	[350] <u>400</u>	[200] <u>250</u>	[175] <u>200</u>
42. Rock crusher	3295						
a) Stationary		[25] <u>50</u>	175	[225] <u>260</u>	[425] <u>485</u>	[250] <u>310</u>	[200] <u>225</u>
b) Portable		[25] <u>50</u>	175	[300] <u>345</u>	[500] <u>570</u>	[325] <u>395</u>	[200] <u>225</u>

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4-Table

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TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
43. Steel works, rolling and finishing mills, electrometallurgical products	3312 & 3313	[25] <u>50</u>	500	[400] <u>460</u>	[925] <u>1010</u>	[425] <u>510</u>	[525] <u>550</u>
44. Incinerators							
a) 1000 lbs/hr and greater capacity		[25] <u>50</u>	300	[175] <u>200</u>	[500] <u>550</u>	[200] <u>250</u>	[325] <u>350</u>
b) 40 lbs/hr to 1000 lbs/hr capacity		[25] <u>50</u>	100	[85] <u>100</u>	[210] <u>250</u>	[110] <u>150</u>	[125] <u>150</u>
45. Gray iron and steel foundries	3321						
Malleable iron foundries	3322						
Steel investment foundries	3324						
Steel foundries (not elsewhere classified)	3325	[25]					
a) 3,500 or more t/y production		[25] <u>50</u>	500	[450] <u>515</u>	[975] <u>1065</u>	[475] <u>565</u>	[525] <u>550</u>
b) Less than 3,500 t/y production		[25] <u>50</u>	125	[225] <u>260</u>	[375] <u>435</u>	[250] <u>310</u>	[150] <u>175</u>
46. Primary aluminum production	3334	[25] <u>50</u>	1000	[2200] <u>2520</u>	[3225] <u>3570</u>	[2225] <u>2570</u>	[1025] <u>1050</u>
47. Primary smelting of zirconium or hafnium	3339	[25] <u>50</u>	5000	[2200] <u>2520</u>	[7225] <u>7570</u>	[2225] <u>2570</u>	[5025] <u>5050</u>
48. Primary smelting and refining of ferrous and nonferrous metals (not elsewhere classified)	3339						
a) 2,000 or more t/y production		[25] <u>50</u>	500	[1100] <u>1260</u>	[1625] <u>1810</u>	[1125] <u>1310</u>	[525] <u>550</u>
b) Less than 2,000 t/y production		[25] <u>50</u>	100	[275] <u>315</u>	[400] <u>465</u>	[300] <u>365</u>	[125] <u>150</u>
49. Secondary smelting and refining of nonferrous metals	3341	[25] <u>50</u>	225	[275] <u>315</u>	[375] <u>590</u>	[300] <u>365</u>	[250] <u>275</u>

5-Table

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
50. Nonferrous metals foundries	3361 3362	[25] <u>50</u>	125	[225] <u>260</u>	[375] <u>435</u>	[250] <u>310</u>	[150] <u>175</u>
51. Electroplating, polishing, and anodizing with 5 or more employees	3471	[25] <u>50</u>	100	[175] <u>200</u>	[300] <u>350</u>	[200] <u>250</u>	[125] <u>150</u>
52. Galvanizing and pipe coating--exclude all other activities	3479	[25] <u>50</u>	100	[175] <u>200</u>	[300] <u>350</u>	[200] <u>250</u>	[125] <u>150</u>
53. Battery manufacturing	3691	[25] <u>50</u>	125	[225] <u>260</u>	[375] <u>435</u>	[250] <u>310</u>	[150] <u>175</u>
54. Grain elevators--intermediate storage only, located in special control areas	4221						
a) 20,000 or more t/y		[25] <u>50</u>	175	[350] <u>400</u>	[550] <u>625</u>	[375] <u>450</u>	[200] <u>225</u>
b) Less than 20,000 t/y		[25] <u>50</u>	100	[175] <u>200</u>	[300] <u>350</u>	[200] <u>250</u>	[125] <u>150</u>
55. Electric power generation	4911						
a) Greater than 25MW		[25] <u>50</u>	1000	[1100] <u>1260</u>	[2125] <u>2310</u>	[1125] <u>1310</u>	[1025] <u>1050</u>
b) Less than 25MW		[25] <u>50</u>	350	[550] <u>630</u>	[925] <u>1030</u>	[575] <u>680</u>	[375] <u>400</u>
56. Gas production and/or mfg.	4925	[25] <u>50</u>	375	[275] <u>315</u>	[675] <u>740</u>	[300] <u>365</u>	[400] <u>425</u>
57. Grain elevators--terminal elevators primarily engaged in buying and/or marketing grain--in special control areas	5153						
a) 20,000 or more t/y		[25] <u>50</u>	500	[450] <u>515</u>	[975] <u>1065</u>	[475] <u>565</u>	[525] <u>550</u>
b) Less than 20,000 t/y		[25] <u>50</u>	150	[175] <u>200</u>	[350] <u>400</u>	[200] <u>250</u>	[175] <u>200</u>

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6-Table

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit				
58. Fuel Burning equipment within the boundaries of the Portland, Eugene-Springfield and Medford-Ashland Air Quality Maintenance Areas and the Salem Urban Growth Area***											
[a] Residual oil fired, wood fired or coal fired											
[1] a) 250 million or more btu/hr (heat input)	[25]	<u>50</u>	150	[175]	<u>200</u>	[350]	<u>400</u>	[200]	<u>250</u>	[175]	<u>200</u>
[2] b) 5 million or more but less than 250 million btu/hr (heat input)	[25]	<u>50</u>	100	[100]	<u>115</u>	[225]	<u>265</u>	[125]	<u>165</u>	[125]	<u>150</u>
[3] c) Less than 5 million btu/hr (heat input)	[25]	<u>50</u>	25	[75]	<u>85</u>	[125]	<u>160</u>	[100]	<u>135</u>	[50]	<u>75</u>
59. Fuel burning equipment within the boundaries of the Portland, Eugene-Springfield and Medford-Ashland Air Quality Maintenance Areas and the Salem Urban Growth Area ***											
[b] Distillate Oil Fired											
[1] a) 250 million or more btu/hr (heat input)	[25]	<u>50</u>	150	[175]	<u>200</u>	[350]	<u>400</u>	[200]	<u>250</u>	[175]	<u>200</u>
[2] b) 5 million or more but less than 250 million btu/hr (heat input)	[25]	<u>50</u>	25	[75]	<u>85</u>	[125]	<u>160</u>	[100]	<u>135</u>	[50]	<u>75</u>

* Excluding hydroelectric and nuclear generating projects, and limited to utilities.
 ** Including fuel burning equipment generating steam for process or for sale but excluding power generation (SIC 4911).
 *** Maps of these areas are attached. Legal descriptions are on file in the Department.

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7-Table

TABLE A Continued (340-20-155)

NOTE: Persons who operate boilers shall include fees as indicated in Items [#57 or 58] 58, 59 or 60 in addition to fees for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee	Fees to be Submitted with New Application	Fees to be Submitted with Renewal Application	Fee to be Submitted with Application to Modify Permit
<u>60. Fuel burning equipment outside the boundaries of the Portland, Eugene-Springfield and Medford-Ashland Air Quality Maintenance Areas and the Salem Urban Growth Area.</u>	<u>4961**</u>						<u>(Fees will be based on the total aggregate heat input of all boilers at the site.)</u>
<u>All wood, coal and oil fired greater than 30 x 10⁶ btu/hr (heat input)</u>		<u>50</u>	<u>100</u>	<u>85</u>	<u>235</u>	<u>135</u>	<u>150</u>
<u>61. New sources not listed above which would emit 10 or more tons per year of any air contaminants including but not limited to particulates, SO_x, NO_x or hydrocarbons, if the source were to operate uncontrolled.</u>		<u>****</u>	<u>****</u>	<u>****</u>	<u>****</u>		<u>****</u>
<u>62. New sources not listed above which would emit significant malodorous emissions, as determined by Departmental or Regional Authority review of sources which are known to have similar air contaminant emissions.</u>		<u>****</u>	<u>****</u>	<u>****</u>	<u>****</u>		<u>****</u>
<u>63. Existing sources not listed above for which an air quality problem is identified by the Department or Regional Authority.</u>		<u>****</u>	<u>****</u>	<u>****</u>	<u>****</u>		<u>****</u>

8-Table

**** Sources required to obtain a permit under items 61, 62, and 63 will be subject to the following fee schedule to be applied by the Department based upon the anticipated cost of processing and compliance determination.

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<u>Estimated Permit Cost</u>	<u>Application Processing Fee</u>	<u>Annual Compliance Determination Fee</u>
<u>Low cost</u>	<u>\$100.00 - \$250.00</u>	<u>\$100.00 - \$250.00</u>
<u>Medium cost</u>	<u>\$250.00 - \$1500.00</u>	<u>\$250.00 - \$1000.00</u>
<u>High cost</u>	<u>\$1500.00 - \$3000.00</u>	<u>\$1000.00 - \$3000.00</u>

As nearly as possible, applicable fees shall be consistent with sources of of similar complexity as listed in Table A.

9-Table

STATEMENT FOR W. H. YOUNG TO PRESENT TO THE COMMISSION:

AGENDA ITEM G(3), June 29, 1979 EQC Meeting

**Proposed Adoption of Rules for Open Burning,
OAR 340-23-025 through 340-23-050**

The next item proposes a rule adoption which will allow domestic backyard burning to continue in the Portland area until December, 1980, and in the southern portion of the valley until July, 1982. Without the proposed extension, domestic open burning would be terminated July 1, 1979. During the interim, alternatives to domestic open burning are to be defined and developed with local advisory committees and the Solid Waste Division.

The staff anticipates, as a result of the alternative studies, the need for a further rule change before December, 1980, which would limit the prohibition to those areas where identified alternatives are available.

A staff amendment to the staff report has been prepared, and Mr. Doug Brannock of the Air Quality staff is here to present the amendment and answer questions at your pleasure.



Environmental Quality Commission

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Amendment No. 1, Agenda Item No. G (3),
June 29, 1979, EQC Meeting

Proposed Adoption of Rules for Open Burning
OAR 340-23-025 through 340-23-050

The Attorney General's Office has pointed out that when the attempt was made to unify the application of the Construction and Demolition Waste rule within the Willamette Valley Open Burning Control Area, a change in meaning was inadvertently introduced which affects the scope of the definition of a Special Control Area and its application to the rule within Multnomah and Washington Counties. Two changes were found to be necessary to correct this problem. In addition a typographical error has been corrected.

- A. First, the definition of a Special Control Area, 340-23-030 (16), was made to apply statewide but was intended for the Willamette Valley only. The correction will be found on page 7 of the attached proposed rule dated 6/24/79 which now reads: (added language is underlined)

(16) "Special Control Area" means an area within the Willamette Valley Open Burning Control Area which includes: . . ."

- B. The second change required is on page 14 of the proposed rule. It was not intended to change the areas within Clackamas, Columbia, Multnomah and Washington Counties subject to application of the Construction and Demolition Waste rule. It was intended only to make all Willamette Valley counties subject to similar rules. Changes to 340-23-045 (5) on page 14 of the proposed rule leave the open burning of Construction and Demolition Waste in Multnomah, Washington, Clackamas, and Columbia counties unchanged from the existing rule but allow burning in the rest of the Willamette Valley under the same



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conditions that have been applied to Clackamas and Columbia counties by the current rules. Section 340-23-045 (5) on page 14 of the proposed rule now reads:

". . .within all Open Burning Controls Areas except that such burning is permitted; [~~within-the-Willamette-Valley Open-Burning-Control-Area-as-fellows:~~]

- (a) In Multnomah County east of the Sandy River.
- (b) In Washington County in all unincorporated areas outside of rural fire protection districts.
- (c) In areas of all other counties [~~areas~~] of the Willamette Valley Open Burning Control Area outside of Special Control Areas."

C. The spelling of the word "practicable" has been corrected on page 17 in 340-23-045 (7) (a).

The complex nature of the prohibited and permitted areas for the various types of burning is admittedly confusing and difficult to understand. A series of maps of the Willamette Valley has been prepared to assist in visualizing where the existing and proposed burning rules apply.

Figures I and II show areas to which the Construction and Demolition Open Burning rules apply. Figures III and IV show the areas of the valley to which the domestic open burning rules apply.

Director's Recommendation

It is recommended that the rule proposed with the subject staff report be replaced by the proposed rule in Attachment A dated 6/25/79. Language has been corrected as follows:

1. Page 7 of the proposed rule, 340-23-030 (16), definition of "Special Control Area" making it apply only to the Willamette Valley.
2. Page 14 of the proposed rule, 340-23-045 (5) correcting the area in Multnomah and Washington Counties permitted to open burn Construction and Demolition Waste.
3. Page 17 in 340-23-045 (7) (a), correction of typographical error in spelling of "practicable."

William H. Young

LDBrannock:bdm
229-5295
June 26, 1979

Attachment A: Proposed Rules for Open Burning,
OAR 340-23-025 through 340-22-050,
as amended and corrected.

WILLAMETTE VALLEY OPEN BURNING CONTROL AREA

PROPOSED RULES

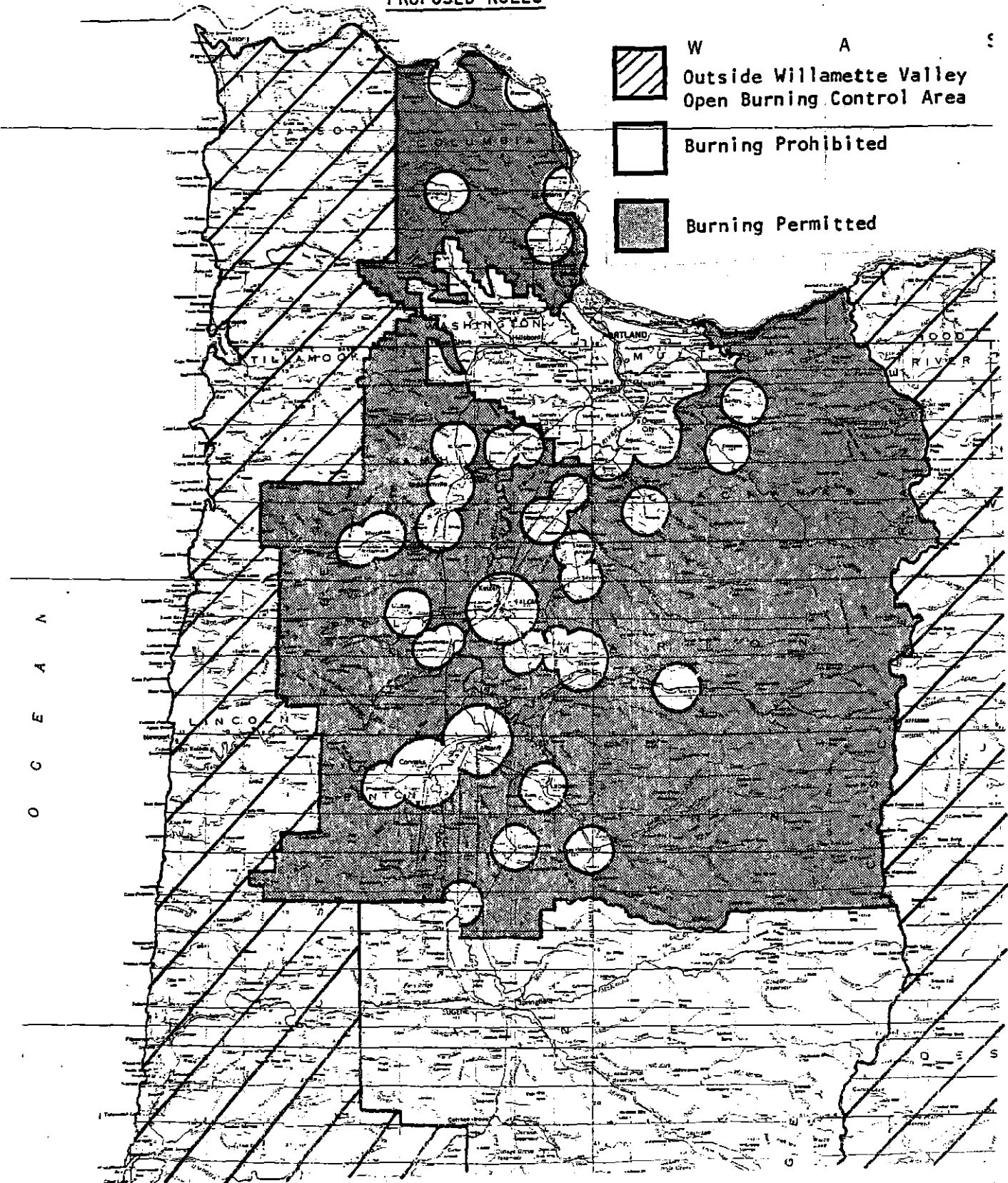
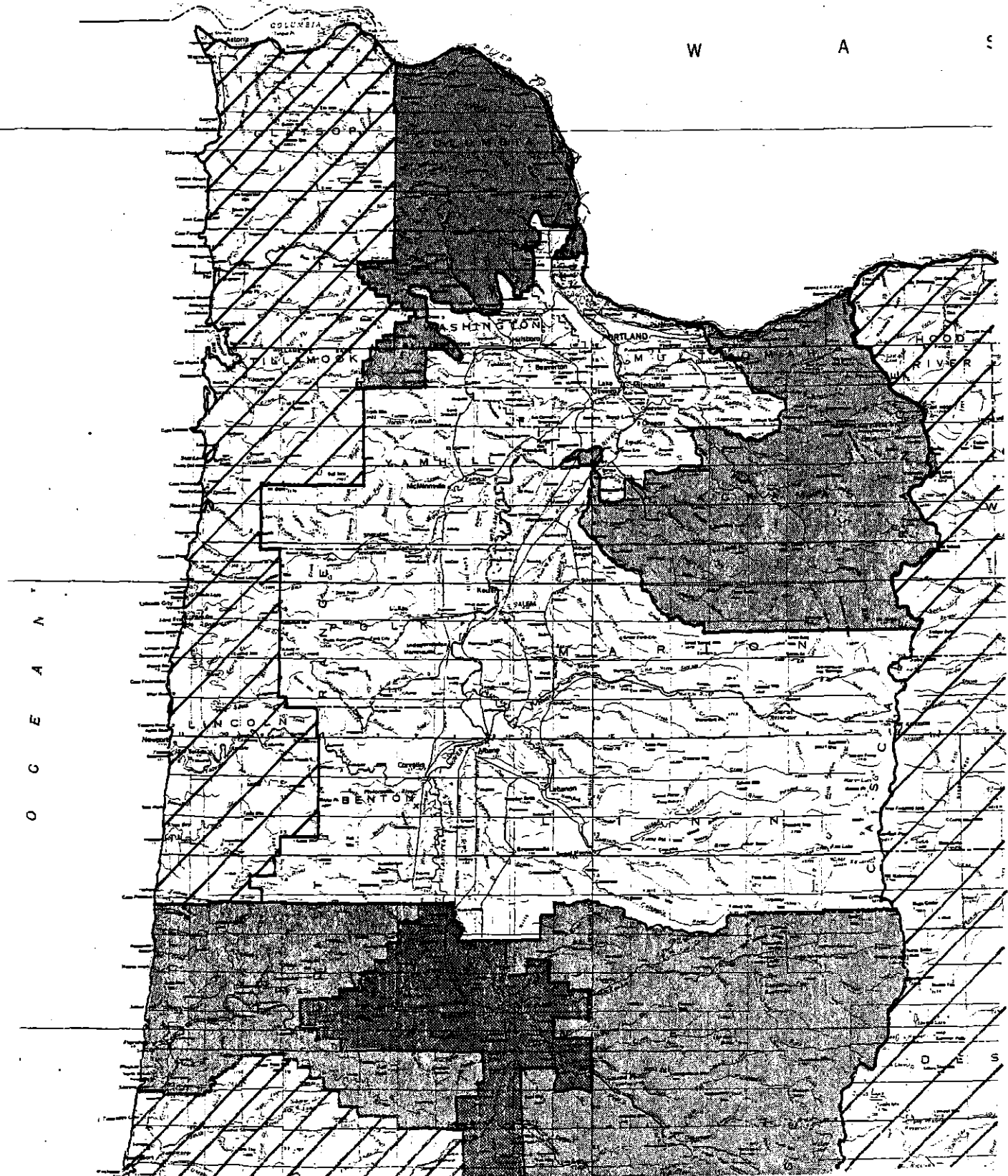


Figure 11

Domestic Open Burning

WILLAMETTE VALLEY OPEN BURNING CONTROL AREA *

EXISTING RULES







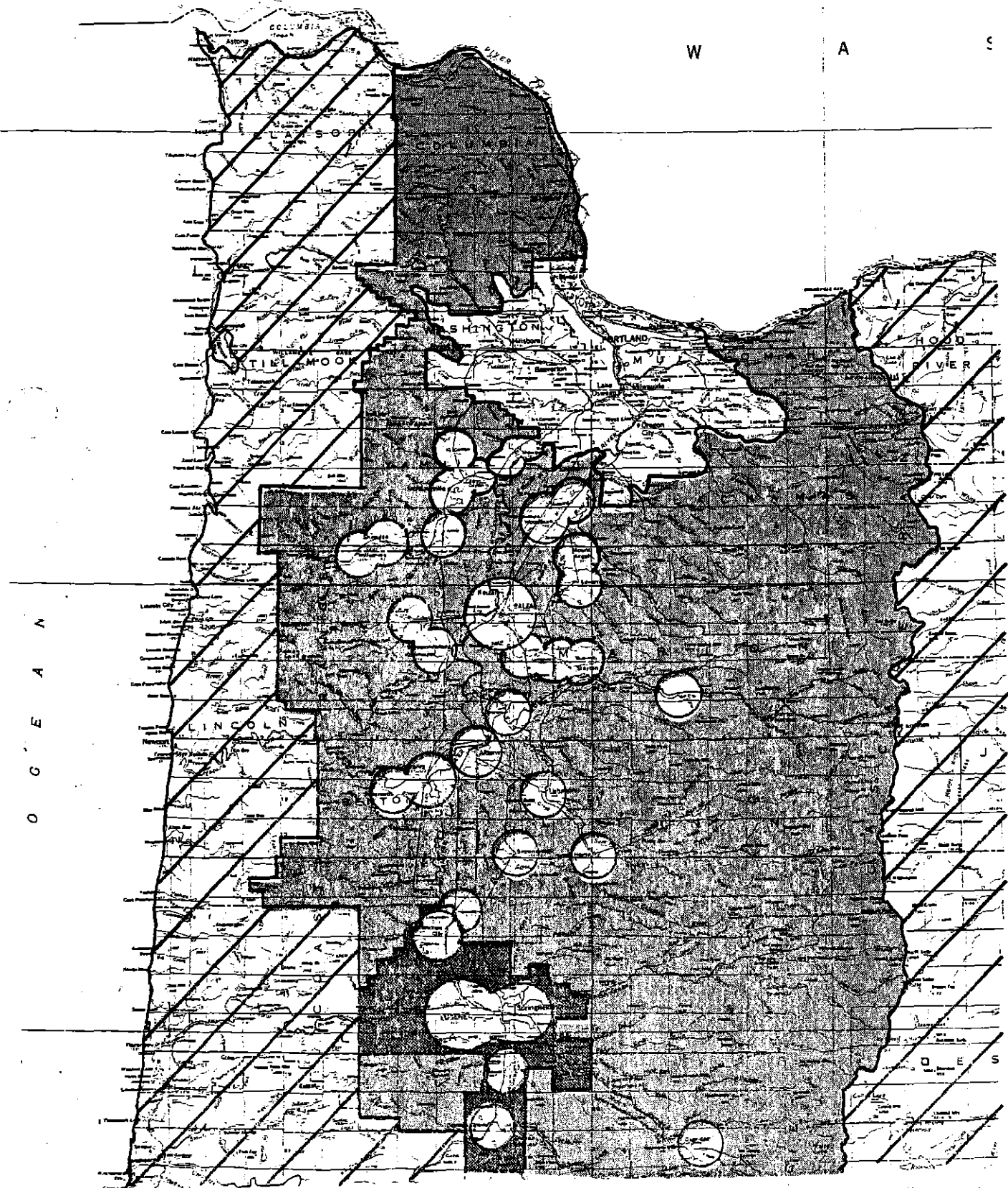
-  Burning authorized 12 months per year.
-  Area outside WPBCA*.
-  Burning of wood, needle and leaf materials only Nov. 1 to June 30.
-  Burning of wood, needle and leaf materials only during Spring and Fall seasons.

Figure III

Domestic Open Burning

WILLAMETTE VALLEY OPEN BURNING CONTROL AREA*

Proposed Rules







-  Burning authorized 12 months per year.
-  Area outside WVPBCA*.
-  Burning of wood, needle and leaf materials only Nov. 1 to June 30.
-  Burning of wood, needle and leaf materials only during Spring and Fall seasons.

Figure IV

Attachment A

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 23

Rules for Open Burning

[ED NOTE: Administrative Order DEQ 37 repealed previous rules 340-23-005 through 340-23-021 (consisting of AP 4, filed 3-12-59; and applicable portions of SA 16, filed 2-13-62).]

340-23-005 [Filed 2-15-72 as DEQ 37, Eff. 3-1-72
Repealed by DEQ 123, Filed and Eff. 10-20-76]

340-23-010 [Filed 2-15-72 as DEQ 37, 3-1-72
Repealed by DEQ 123, Filed and Eff. 10-20-76]

340-23-015 [Filed 2-15-72 as DEQ 37, Eff. 3-1-76
Repealed by DEQ 123, Filed and Eff. 10-21-76]

340-23-020 [Filed 2-15-72 as DEQ 37, Eff. 3-1-72
Repealed by DEQ 123, Filed and Eff. 10-20-76]

Policy

340-23-025 In order to restore and maintain the quality of the air resources of the state in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the state, it is the policy of the Environmental Quality Commission: to eliminate open burning disposal practices where alternative disposal

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methods are feasible and practicable; to encourage the development of alternative disposal methods; to emphasize resource recovery; to regulate specified types of open burning; to encourage utilization of the highest and best practicable burning methods to minimize emissions where other disposal practices are not feasible; and to require specific programs and timetables for compliance with these rules.

Statutory Authority: ORS 468.020, 468.295, and 468.310

Hist: Filed and Eff. 10-20-76 as DEQ 123

Definitions

340-23-030 As used in these rules unless otherwise required by context:

(1) "Agricultural Operation" means an activity on land currently used or intended to be used primarily for the purpose of obtaining a profit in money by raising, harvesting and selling crops or by the raising and sale of, or the produce of, livestock or poultry, which activity is necessary to serve that purpose; it does not include the construction and use of human dwellings customarily provided in conjunction with the agricultural operation."

~~[(1)]~~ (2) "Commercial Waste" means combustible waste which is generated by any activity of wholesale or retail commercial offices or facilities, or by industrial, governmental, institutional, or charitable organization offices and facilities, or by housing facilities with more than four living units including, but not limited to, apartments, hotels, motels, dormitories, and mobile home parks, but does not include any waste which is defined as industrial waste under subsection (9) of this section or which is prohibited in section 340-23-040(7).

~~[(2)]~~ (3) "Commission" means the Environmental Quality Commission.

~~[(3)]~~ (4) "Construction and Demolition Waste" means combustible waste which is generated by the removal of debris, logs, trees, brush, or demolition material from any site in preparation for land improvement or a construction project; any waste occurring as the result of a construction project; or any waste resulting from the complete or partial destruction of any man-made structures such as houses, apartments, commercial buildings, or industrial buildings.

~~[(4)]~~ (5) "Department" means the Department of Environmental Quality.

~~[(5)]~~ (6) "Director" means the Director of the Department of Environmental Quality or his delegated representative pursuant to ORS 468.045(3).

~~[(6)]~~ (7) "Domestic Waste" means combustible household waste, other than wet garbage, such as paper, cardboard, leaves, yard clippings, wood, or similar materials generated in a dwelling housing four (4) families or less, or on the real property on which the dwelling is situated.

~~[(7)]~~ (8) "Fire Hazard" means the presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare, or to adjacent lands.

~~[(8)]~~ (9) "Forced-air Pit Incineration" means any method or device by which burning of waste is done in a subsurface pit or above ground enclosure with combustion air supplied under positive draft or air curtain, and controlled in such a manner as to optimize combustion efficiency and minimize the emission of air contaminants.

~~[(9)]~~ (10) "Industrial Waste" means combustible waste produced as the direct result of any manufacturing or industrial process.

~~[(10)]~~ (11) "Open Burning" means conducted in such a manner that combustion air and combustion products may not be effectively controlled including, but not limited to, burning conducted in open outdoor fires, burn barrels, and backyard incinerators.

~~[(11)]~~ (12) "Open Burning Control Area" means an area established to control specific open burning practices or to maintain specific open burning standards which may be more stringent than those established for other areas of the state including, but not limited to, the following areas:

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(a) All areas within incorporated cities having a population of four thousand (4,000) or more within three (3) miles of the corporate limits of any such city.

(b) The Coos Bay Open Burning Control Area, as generally depicted on Attachment 1, and as defined as follows: Beginning at a point approximately 4-1/2 miles WNW of the City of North Bend, Coos County, at the intersection of the north boundary of T25S, R13E and the coast line of the Pacific Ocean; Thence east to the NE corner of T26S, R12E; thence south to the SE corner of T26S, R12E; thence west to the intersection of the south boundary of T26S, R14W and the coastline of the Pacific Ocean; thence northerly and easterly along the coastline of the Pacific Ocean to its intersection with the north boundary of T25S, R13E, the point of beginning.

(c) The Rogue Basin Open Burning Control Area, as generally depicted on Attachment 2, and as defined as follows: Beginning at a point approximately 4-1/2 miles NE of the City of Shady Cove, Jackson County at the NE corner of T34S, R1W, Willamette Meridian; thence south along the Willamette Meridian to the SW corner of T37S, R1W; thence East to the NE corner of T38S, R1E; thence South to the SE corner of T38S, R1E; thence East to the NE corner of T39S, R2E thence South to the SE corner of T39S, R2E; thence West to the SW corner of T39S, R1E; thence NW along a line to the NW corner of T39S, R1W; thence West to the SW corner of T38S, R2W; thence North to the

SW corner of T36S, R2W; thence West to the SW corner of T36S, R4W; thence South to the SE corner of T37S, R5W; thence West to the SW corner of T37S, R6W; thence North to the NW corner of T36S, R6W; thence East to the SW corner of T35S, R1W; thence North to the NW corner of T34S, R1W; thence East to the point of beginning.

(d) The Umpqua Basin Open Burning Control Area, as generally depicted on Attachment 3, and as defined as follows: Beginning at a point approximately 4 miles WNW of the City of Oakland, Douglas County, at the NE corner of T25S, R5W, Willamette Meridian; thence South to the SE corner of T25S, R5W; thence East to the NE corner of T26S, R4W; thence South to the SE corner of T27S, R4W; thence West to the SE corner of T27S, R5W; thence South to the SE corner of T30S, R5W; thence West to the SW corner of T30S, R6W; thence north to the NW corner of T29S, R6W; thence West to the SW corner of T28S, R7W thence North to the NW corner of T27S, R7W; thence East to the NE corner of T27S, R7W; thence North to the NW corner of T26, R6W; thence East to the NE corner of T26, R6W; thence North to the NW corner of T25S, R5W; thence East to the point of beginning.

(e) The Willamette Valley Open Burning Control Area, defined as follows: All of Benton, Clackamas, Columbia, [~~Lane~~7] Linn, Marion, Multnomah, Polk, Washington[7] and Yamhill counties and that portion of Lane County east of Range 7 West.

~~[(12)]~~ (13) "Person" means any individual, corporation, association, firm, partnership, joint stock company, public or municipal corporation, political subdivision, the state and any agency thereof, and the federal government and any agency thereof.

~~[(13)]~~ (14) "Population" means the annual population estimate of incorporated cities within the State of Oregon issued by the Center for Population Research and Census, Portland State University, Portland, Oregon.

~~[(14)]~~ (15) "Regional Authority" means the Lane Regional Air Pollution Authority.

(16) "Special Control Area" means an area within The Willamette Valley Open Burning Control Area which includes:

(A) Any area in or within three (3) miles of the boundary of any city of more than 1,000 but less than 45,000 population.

(B) Any area in or within six (6) miles of the boundary of any city of 45,000 or more population.

(C) Any area between areas established by this rule where the boundaries are separated by three (3) miles or less.

(D) Whenever two or more cities have a common boundary, the total population of these cities will determine the control area classification and the municipal boundaries of each of the cities shall be used to determine the limit of the control area.

~~[(15)]~~ (17) "Waste" means any useless or discarded materials.

Statutory Authority: ORS 468.020, 468.295, and 468.310

Hist: Filed and Eff. 10-20-76 as DEQ 123

Exceptions, Statewide

340-23-035 The provisions of these rules shall not apply to:

(1) Fires set for traditional recreational purposes and traditional ceremonial occasions for which a fire is appropriate provided that no waste materials which may emit dense smoke or noxious odors as prohibited in section 340-22-040(7) are included as any part of the fuel used for such fires.

(2) Any barbecue equipment not used for commercial or fund raising purposes, nor to any barbecue equipment used for commercial or fund raising purposes for no more than two periods in any calendar year, each such period not to exceed two consecutive weeks, in any single area.

(3) Fires set or allowed by any public agency when such fire is set or allowed to be set in the performance of its official duty for the purpose of weed abatement, instruction of employes in the methods of fire fighting, or for prevention or elimination of a fire hazard, and which are necessary in the opinion of the public agency responsible for such fires.

(4) Open burning as a part of agricultural operations which is regulated in part by OAR Chapter 340, Division 26, Agricultural Operations.

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(5) Open burning on forest land permitted under the Smoke Management Plan filed pursuant to ORS 477.515.

(6) Fires set pursuant to permit for the purpose of instruction of employees of private industrial concerns in methods of fire fighting, or for civil defense instruction.

Statutory Authority: ORS 468.020, 468.290, 468.295, and 468.310

Hist: Filed and Eff. 10-20-76 and DEQ 123

General Requirements and Prohibitions

340-23-040 (1) No person shall cause or allow to be initiated or maintained any open burning which is prohibited by any rule of the Commission.

(2) Open burning in violation of any rule of the Commission shall be promptly extinguished by the person in attendance or person responsible when notified to extinguish the fire by either the Department, or by any other appropriate public official.

(3) Any person who owns or controls, including the tenant of, property on which open burning occurs or who has caused or allowed such open burning to be initiated or maintained shall be considered the person responsible for the open burning.

(4) Open fires allowed by these rules shall be constantly attended by a responsible person until extinguished.

(5) All combustible material to be open burned shall be dried to the extent practicable to prevent emissions of excessive smoke.

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[~~6~~] All combustible material to be open burned shall be stacked or windrowed in such a manner as to eliminate dirt, rocks, and other non-combustible material, to promote efficient burning. Equipment and tools shall be available to periodically re-stack the burning material to insure that combustion is essentially completed and that smoldering fires are prevented.

(6) (a) Open burning which creates any of the following is prohibited:

(i) a private nuisance;

(ii) a public nuisance;

(iii) a hazard to public safety.

(b) If paragraph (a) hereof is violated, the person or persons responsible for the open burning under these rules shall immediately abate the nuisance or hazard.

(c) This subsection applies equally to otherwise authorized and unauthorized open burning.

(7) Open burning of any waste materials which normally emit dense smoke, noxious odors, or which may tend to create a public nuisance such as, but not limited to, household garbage, plastics, wire insulation, auto bodies, asphalt, waste petroleum products, rubber products, animal remains, and animal or vegetable wastes resulting from the handling, preparation, cooking, or service of food is prohibited.

(8) If the Department determines that open burning allowed by these rules may cause or is causing a public nuisance, the Department may require that the burning be terminated or that auxiliary combustion equipment or combustion promoting materials to be used to insure complete combustion and elimination of the nuisance. Auxiliary combustion equipment required under this subsection may include, but is not limited to, fans or air curtain incinerators. Combustion promoting materials may include, but are not limited to, propane, diesel oil, or jellied diesel.

(9) No open burning shall be initiated in any part of the state on any day or at any time when the Department advises fire permit issuing agencies that open burning is not allowed in that part of the state because of adverse meteorological or air quality conditions.

(10) No open burning shall be initiated in any area of the state in which an air pollution alert, warning, or emergency has been declared pursuant to OAR Chapter 340, Sections 340-27-010 and 340-27-025(2), and is then in effect. Any open burning in progress at the time of such declaration shall be promptly extinguished by the person in attendance or person responsible when notified of the declaration by either the Department or any other appropriate public official.

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(11) Open burning authorized by these rules does not exempt or excuse any person from liability for, consequences, damages, or injuries resulting from such burning, nor does it exempt any person from complying with applicable laws, ordinances, or regulations of other governmental agencies having jurisdiction.

(12) Forced-air pit incineration may be approved as an alternative to open burning prohibited by these rules, provided that the following conditions shall be met:

(a) The person requesting approval of forced air pit incineration shall demonstrate to the satisfaction of the Department or Regional Authority that no feasible or practicable alternative to forced-air pit incineration exists.

(b) The forced-air pit incineration facility shall be designed, installed, and operated in such a manner that visible emissions do not exceed forty percent (40%) opacity for more than three (3) minutes out of any one (1) hour of operation following the initial thirty (30) minute startup period.

(c) The person requesting approval of a forced-air pit incineration facility shall obtain an Air Contaminant Discharge Permit, if required therefor, and the person shall be granted an approval of the facility only after a Notice of Construction and Application for Approval is submitted pursuant to OAR Chapter 340, Sections 340-20-020 through 340-20-030. Statutory Authority: ORS 468.020, 468.295, and 468.310

Hist: Filed and Eff. 10-20-76 as DEQ 123

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Requirements and Prohibitions by Area

340-23-045 (1) Lane County: The rules and regulations of the Lane Regional Air Pollution Authority shall apply to all open burning conducted in Lane County, provided that the provisions of such rules and regulations shall be no less stringent than the provisions of these rules.

(2) Solid Waste Disposal: Open burning at solid waste disposal sites is prohibited statewide except as authorized by a Solid Waste Permit issued as provided in OAR Chapter 340, Sections 340-61-005 through 340-61-085.

(3) Commercial Waste: Open burning of commercial waste is prohibited within open burning control areas except as may be provided in subsection 7 of this section.

(4) Industrial Waste: Open burning of industrial waste is prohibited statewide except as may be provided in subsection 7 of this section.

(5) Construction and Demolition Waste: Except as may be provided in this subsection and in subsection 7 of this section, open burning of construction and demolition waste, including non-agricultural land clearing debris, is prohibited [~~as follows:~~]

[~~(a)~~] within all Open Burning Control Areas [~~in Baker, Benton, Clatsop, Coos, Crook, Deschutes, Douglas, Hood River, Jackson, Josephine, Klamath, Lincoln, Linn, Malheur, Marion, Polk, Tillamook, Umatilla, Union, Wasco, and Yamhill counties.~~] except that such burning is permitted:

[~~(b)~~] (a) In Multnomah County [~~west~~] east of the Sandy River.

[~~(c)~~] (b) In Washington County in all unincorporated areas [~~within~~] outside of rural fire protection districts. [~~including~~ the areas of incorporated cities within or surrounded by said districts.]

[~~(d)~~] (c) In [~~Columbia and Clackamas counties within~~] areas of all other counties of the Willamette Valley Open Burning Control Area outside of Special Control Areas. [~~established as:~~]

[~~(A) -- Any area in or within three (3) miles of the boundary of any city of more than 1,000 but less than 45,000 population.~~

[~~(B) -- Any area in or within six (6) miles of the boundary of any city of 45,000 or more population.~~

[~~(C) -- Any area between areas established by this rule where the boundaries are separated by three (3) miles or less.~~

[~~(D) -- Whenever two or more cities have a common boundary, the total population of these cities will determine the control area classification and the municipal boundaries of each of the cities shall be used to determine the limit of the control area.]~~

(6) Domestic Waste: Open burning of domestic wastes is prohibited in the Willamette Valley Open Burning Control Area, except:

(a) ~~[such]~~ Such burning is permitted ~~[until July 17, 1979]~~
until December 31, 1980:

~~[(a)]~~ (A) In Columbia County. ~~[excluding the area within the Seappoose Rural Fire Protection District.]~~

~~[(b)]~~ (B) In the Timber and Tri-City Rural Fire Protection District and in all areas, outside of rural fire protection districts in Washington County.

~~[(c)]~~ (C) In the following rural fire protection districts of Clackamas County:

~~[(A)]~~ (i) Clarkes Rural Fire Protection District.

~~[(B)]~~ (ii) Estacada Rural Fire Protection District No. 69.

~~[(C)]~~ (iii) Colton-Springwater Rural Fire Protection District.

~~[(D)]~~ (iv) Molalla Rural Fire Protection District.

~~[(E)]~~ (v) Hoodland Rural Fire Protection District.

~~[(F)]~~ (vi) Monitor Rural Fire Protection District.

~~[(G)]~~ (vii) Scotts Mills Rural Fire Protection District.

~~[(H)]~~ (viii) Aurora Rural Fire Protection District.

~~[(I)]~~ (ix) All portions of the Clackamas-Marion Fire Protection District within Clackamas County.

~~[(d)]~~ (D) In Multnomah County east of the Sandy River.

~~[(e)]~~ (E) In all other parts of Multnomah, Washington~~[7]~~ and Clackamas [and-Columbia] counties, for the burning of wood, needle and leaf materials from trees, shrubs or plants from yard clean-up on the property at which one resides, during the period [commencing-with-the last-Friday-in-October-and-terminating-at-sunset-on-the-third-Sunday in-December, and-the-period-commencing-the-second-Friday-in-April-and terminating-at-sunset-on-the-third-Sunday-in-May.] commencing on the first day in March and terminating at sunset on the fifteenth of June and commencing on the first day in October and terminating at sunset on the fifteenth of December.

(b) Such burning is permitted until July 1, 1982:

(A) Outside of Special Control areas in the counties of Benton, Lane, Linn, Marion, Polk and Yamhill counties.

(B) Within Special Control Areas of Benton, Lane, Linn, Marion, Polk, and Yamhill counties for wood, needle and leaf materials from trees, shrubs or plants from yard cleanup on the property at which one resides, during the period commencing on the first day in March and terminating at sunset on the fifteenth of June and commencing on the first day in October and terminating at sunset on the fifteenth of December.

~~[(f)]--In-Lane-County, in accordance with the Rules and Regulations of the Lane Regional Air Pollution Authority.]~~

[§] (c) Domestic open burning is allowed under this section only between 7:30 a.m. and sunset on days when the Department has advised fire permit issuing agencies that open burning is allowed.

(7) Open Burning Allowed by Letter Permit: Burning of commercial, industrial and construction and demolition waste on a singly occurring or infrequent basis may be allowed by a letter permit issued by the Department, provided that the following conditions are met:

(a) No practicable alternative method for disposal of the waste is available.

(b) Application for disposal of the waste by burning is made in writing to the Department, listing the quantity and type of waste to be burned, and all efforts which have been made to dispose of the waste by other means.

(c) The Department shall evaluate all such requests for open burning taking into account reasonable efforts to use alternative means of disposal, the condition of the particular airshed where the burning will occur, other emission sources in the vicinity of the requested open burning, remoteness of the site and methods to be used to insure complete and efficient combustion of the waste material.

(d) If the Department is satisfied that reasonable alternative disposal methods are not available, and that significant degradation of air quality will not occur as the result of allowing the open

burning to be accomplished, the Department may issue a letter permit to allow the burning to take place. The duration and date of effectiveness of the letter permit shall be specific to the individual request for authorization of open burning, and the letter permit shall contain conditions so as to insure that the burning is accomplished in the most efficient manner and over the shortest time period attainable.

(e) Within the boundaries of Clackamas, Columbia, Multnomah, and Washington counties, such letter permits shall be issued only for the purpose of disposal of waste resulting from emergency occurrences including, but not limited to, floods, windstorms, or oil spills, provided that such waste cannot be disposed of by any other reasonable means.

(f) Failure to conduct open burning according to the conditions of the letter permit, or any open burning in excess of that allowed by the letter permit shall cause the permit to be immediately terminated as provided in OAR 340-14-045(2) and shall be cause for assessment of civil penalties as provided in OAR 340-12-030, 340-12-035, 340-12-040(3)(b), 340-12-045, and 340-12-050(3), or for other enforcement action by the Department.

Statutory Authority: ORS 468.020, 468.295, and 468.310

Hist: Filed and Eff. 10-20-76 as DEQ 123

Records and Reports

340-23-050 As required by ORS 478.960(7), fire permit issuing agencies shall maintain records of open burning permits and the conditions thereof, and shall submit such records or summaries thereof to the Commission as may be required. Forms for any reports required under this section shall be provided by the Department.

Statutory Authority: ORS 468.020, 468.295, and 468.310

Hist: Filed and Eff. 10-20-76 as DEQ 123



Environmental Quality Commission

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. G(3), June 29, 1979, EQC Meeting

Proposed Adoption of Rules for Open Burning, OAR 340-23-025 through 23-050

Background and Problem

1. Availability of Alternatives

Domestic open burning in all areas of the Willamette Valley is scheduled to be prohibited after July 1, 1979, without readily available alternatives for the public. The proposed extension of time before instituting a ban on burning is coupled with an active effort to define and develop alternatives.

2. Regional Consistency of Rules

The open burning rules contain large discrepancies by applying dissimilar restrictions to similar areas of the Willamette Valley.

The rules of the Department have been added to over the years as direct jurisdiction has been assumed from local Air Pollution Authorities as they were forced out of existence by local pressures. Basically the rule additions have incorporated existing local agency rules into OAR chapter 340 with very little effort to make the rules regionally consistent. This has resulted in a rather wide disparity of regulations for areas in the Willamette Valley, for instance, domestic burning has been permitted 12 months a year in Corbett, Estacada, Mulino and part of Aurora but was permitted only during a short spring and fall season and then only for yard trimming in Valsetz, Kings Valley, Scio and Mill City. Furthermore, burning of



Contains
Recycled
Materials

construction and demolition waste has been permitted in Corbett, Colton and Mist but not in Crabtree, Yamhill or Alsea. The proposed rule is a step toward correcting such discrepancies.

3. Definitions of Agricultural Operations

A definition of agricultural operations for purposes of classifying open burning has never existed in the rules. This has led to a wide range of interpretation by the public and other agencies involved. A definition has been requested by the public and one is included in the proposed rule.

4. Dates for Burning

Many comments from general public and fire protection services have voiced strong criticism about the selection and timing of burning seasons. They point out, that most of the days classified as burning days are so wet, burning is impracticable. The proposed beginning and ending dates of the burning seasons for the Willamette Valley should relieve this common problem.

5. Statutory Authority

Statutory authority to act in these matters is vested in the commission by ORS 468.020, 468.290, 468.295 and 468.310.

6. Statement of Need

A revised statement of need for this rule is provided as Attachment A.

Evaluation

Rule Development:

Originally, the rule change under consideration was proposed as basically an extension of time before imposing a full ban on domestic open burning imposed in the Willamette Valley by OAR 340-23-045 (6).

Requests for the change came from both the public and private sectors. A public hearing on the proposed rule was held on March 21, 1979, as authorized at the February 23, 1979, EQC meeting. As a result of the hearing process a considerable amount of comment was received, both pro and con. The Hearing Officer's Report, Attachment B, documents the hearing and responses.

The ban on domestic open burning is proposed to be delayed until December 31, 1980, in Clackamas, Columbia, Multnomah and Washington Counties and until July 1, 1982, in the remainder of the Willamette Valley Open Burning Control Area.

The Portland AQMA Advisory Committee voiced their concerns over allowing open burning to continue beyond the July 1, 1979 date. The AQMA Advisory Committee is agreeable to the continuance of allowed burning in the Portland area until December 31, 1980, only if positive steps are undertaken to define and develop alternatives to domestic open burning in the AQMA area. Partly as a result of their letter dated February 9, 1979, to the Director, Attachment C, the Department responded and set forth a statement of intent to coordinate a study of alternatives available, see Department's letter dated March 5, 1979, Attachment D.

Basically, the proposed time extension before banning open burning recognizes the failure of past efforts to develop alternative methods of disposal before the date set for a ban to take effect. For this period of extension the Department has committed itself to providing the leadership to identify and develop the feasible alternatives. This process is already underway as indicated in Attachment D.

It must be recognized, however, that the full applicability of developed alternatives will not be known until sometime after December 1, 1979, when the implementation schedule for the alternatives is decided upon. Depending upon the applicability of the alternatives, it may be necessary to adjust these rules again at the end of 1980 to allow domestic open burning to continue in the rural areas of the Valley. The wording of the proposed rule would ban all domestic open burning regardless of available alternatives.

After the hearing in March, several fire chiefs from the mid-Willamette Valley requested an extension of time to comment, Attachment E. This extension was granted.

The proposed rules have been modified from the proposed draft presented at the hearing, to reflect the pleas from public testimony.

The staff has conferred with the affected regions and LRAPA. No serious conflicts for implementation or enforcement have been expressed.

Discussion of Proposed Rule:

Present wording of the rule imposes a ban on domestic open burning in the Willamette Valley on July 1, 1979. Enforcement of this ban is opposed by rural residents, most rural fire districts and the State Fire Marshal.

It is apparent that such a ban on open burning would have almost no public support in the rural areas. At the present time alternatives are simply not available for most of the rural area.

Sentiment from the urban areas is divided but nearly all of the opposition to extension of time before enforcing a ban on domestic burning comes from interests in the Portland urban area. The three main citizen lobby groups opposed to open burning, Oregon Environmental Council, League of Women Voters and Portland AQMA Advisory Committee, have indicated their willingness to accept an extension of time with the understanding that the Department is developing the choices for alternatives as indicated.

The wording of the proposed rule would institute a ban on domestic open burning in the Willamette Valley in two phases. After December 31, 1980, burning would be prohibited in the northern counties of Clackamas, Columbia, Multnomah and Washington, (340-23-045(6) (a)). After July 1, 1982, burning would similarly be prohibited in the remainder of the Willamette Valley. The intervening time is to be spent developing alternatives to open burning.

Although final judgement must wait until the study of alternatives is completed, it is most likely that suitable alternatives will be more available in the densely populated, urbanized areas. Thus it may not be reasonable, in the long run, to enforce a valley wide total ban as proposed by the rules. If the alternatives identified by the study do not cover all areas of the valley, another change in the rules may be necessary at the expiration of the interim time.

Regional Consistency:

The open burning rule pertaining to the Willamette Valley has grown over the years by adding applicable sections from the Department, the old Columbia Willamette Air Pollution Authority and the old Mid-Willamette Valley Air Pollution Authority. The Lane Regional Air Pollution Authority has had their own set of rules but the Department has not had rules which apply to Lane County. This condition has led to a set of rules which lacks regional consistency, as already indicated, and has been difficult to interpret and enforce.

While it was not possible or desirable to make a complete rewrite of the rules in the time allotted a major effort was made to remove some of the worst inconsistencies, such as, allowing open burning 12 months a year in the rural areas around Portland and Eugene but prohibiting it in the remainder of the valley. The proposed rule, though not perfect, gives a much more even handed treatment.

The proposed new definition of a Special Control Area was lifted from OAR 340-23-045(5)(c) which applied only to Columbia and Clackamas Counties. Special Control Areas are defined as populated areas within three miles of cities between 1,00 and 45,000 population and within six miles of cities greater than 45,000 population. Some thought was given to making the area extend only to the city limits of cities between 1,000 and 4,000 but this was rejected as not being sufficiently restrictive around communities of the valley.

The Special Control Area is then used to control the burning of both Construction and Demolition Waste and Domestic Waste throughout the valley except for Multnomah and Washington Counties where the equivalence of the Special Control Area is all of Multnomah County West of the Sandy River and all of Washington County within Rural Fire Protection Districts. (Domestic open burning is allowed all year long in the Timber and Tri Cities Rural Fire Protection Districts of Washington County and nine rural fire districts in Clackamas County.)

The proposed rule allows Construction and Demolition Waste and Domestic Waste to be burned outside of Special Control Areas for the entire year. Within Special Control Areas the open burning of Construction and Demolition Waste is prohibited and the open burning of Domestic Waste is permitted only during the spring and fall burning period. No significant increase in open burning is expected but the proposed rule would allow a person three miles outside of Mill City, for instance, to tear down a house and burn the debris.

The existing rule differs in that the burning of Construction and Demolition Waste has been permitted outside of Special Control Areas in Clackamas, Columbia, Multnomah and Washington Counties only. The season on open burning of Domestic Waste has existed the year around only outside of Special Control Areas in Multnomah and Washington counties plus most of Columbia County and rural Clackamas County and in Lane County only outside of their AQMA from November through June.

A more sweeping change is not proposed at this time because the proposed rule is viewed as an interim measure until the alternative study is completed and areas can be more clearly defined.

Agricultural operations are not covered by these rules but many people who wish to burn want to qualify under agricultural operations. In order to clarify who is subject to the open burning rules and who is subject to agricultural rules, a definition of Agricultural Operations has been added. If a person does not meet the criteria for an agricultural operation referenced by 340-23-35(4) he would be controlled by these rules. A change was made in the Attorney General's version of the definition to include "intended" land use so it would include agricultural land clearing as required by ORS 468.290(4).

Through extensive testimony, the public and fire districts objected about having to burn during short seasons when it is so wet and rainy much of the time. It is a fact that a very substantial portion of burning days are so wet that open burning is not practicable. Often when burning can be done, the fuel is so wet that excessive smoke is produced. Fire services complain that a fire hazard is created by stockpiling refuse, particularly through summer, waiting for the first burn day.

By lengthening the burning seasons, burning days can be more judiciously selected and people would not feel so compelled to burn when it is wet. People would have a better chance of having a dry day available.

It is doubtful if more material would be burned as a result of the lengthened season than is now the case, but that which is burned would be spread over better dispersion days. The staff proposes to couple an increase in the burning season with an effort to devise a better system for selecting burn days than is presently used. Burning decision criteria will be developed which utilize both meteorological and air quality information.

The Department also proposes to develop a useful public information program on how to make good burn piles to produce less smoke. This effort is already started as part of the commitment indicated in Attachment D.

The proposed rule change makes the spring and fall burning seasons from March 1st to June 15th and October 1st to December 15th respectively. There were many suggestions and requests in testimony to make the period all winter long as it presently is in Clackamas County and Lane County, but the proposed rule is considered to be a good compromise.

A section has been added to the rules in 340-23-040(6) to clarify the Department's position on open burning and will be the basis for a significant part of the Department's public education effort. This new section has been checked with the Attorney General's office, Attachment G.

The rule as proposed at the March 21 hearing included "wet or green vegetation" as prohibited material for burning. This language met with strong opposition from the fire services and other public comment. The staff admits the wording would be difficult to enforce. The wording has been deleted. The original intent was to diminish nuisance smoke so we believe the purpose is better served by the new language of section 340-23-040(6).

Other changes to which there are no staff objections are:

1. Remove Lane county west of range 6 from the Willamette Valley open burning control area at the request of Lane Regional Air Pollution Authority.
2. Include Scappoose Rural Fire Protection District in the same category with the rest of Columbia County for domestic burning control purposes.

Finally Lane County east of the coast range has been included in sections 340-23-045(5) and (6) and section 340-23-045(6) (f) has been deleted because it is a repeat of 340-23-045(1).

Summation:

In summary,

1. Alternatives are not presently available for domestic open burning and a ban at this time will create a hardship. A development effort by the Department is underway to identify and develop practicable alternatives starting first in the Portland area. It is proposed to delay the ban for domestic open burning until December 31, 1980, in the Portland area and until July 1, 1982 in the rest of the valley.
2. The present rules contain open burning control inconsistencies which need to be corrected. Some of the inconsistencies have led to misunderstandings and lack of public support. The proposed rule places urban and rural areas of the valley under respectfully similar rules.
3. A definition of agricultural operations is necessary to clarify by which set of open burning rules certain of the public are controlled.
4. A longer period for spring and fall burning is proposed to access better burning weather. Both meteorological and air quality criteria will be used to determine which days open burning will be allowed.
5. A section is proposed which addresses the Department's intent to have burning conducted so as not to produce a nuisance or hazard.
6. Scappoose Rural Fire Protection District has requested to be placed in an open burning control category with the rest of Columbia County.
7. The coastal portion of Lane County has been excluded from the Willamette Valley Open Burning Control Area.

Director's Recommendation:

Based upon the summation it is recommended that the proposed rules for open burning OAR 340-23-025 through 340-23-050 be adopted as presented in Attachment H.



WILLIAM H. YOUNG

DLBrannock:jl
229-5836
June 15, 1979

- Attachments
- A. Statement of Need
 - B. Hearing's Officers Report of March 21, 1979
 - C. February 9, 1979 letter to DEQ from Portland AQMA Advisory Committee
 - D. March 5, 1979 letter to Portland AQMA Advisory committee from DEQ
 - E. Public Requests for extended comment time after hearing.
 - F. Letter from Attorney General on definition of "Agricultural Operations."
 - G. Letter from Attorney General on prohibition of nuisance.
 - H. Proposed Rules for Open Burning, OAR 340-23-025 through 340-23-050.

Attachment A

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

In the Matter of the Adoption of)
Amendments to Rules for Open)
Burning, OAR Chapter 340,)
Sections 23-030, 23-040 and)
23-045.)

STATEMENT OF NEED

The Environmental Quality Commission intends to adopt revised Open Burning Rules (OAR, chapter 340, Sections 23-030, 23-040, and 23-045).

a. Legal Authority: ORS 468.020, 468.290, 468.295, and 468.310.

b. Need for Rule:

1. To allow open burning needed to dispose of domestic yard and garden trimmings and debris which collect on private properties to continue during spring and fall yard cleanup periods. There is no alternative disposal system immediately available for much of this material.
2. To provide a time frame needed to complete an evaluation of the feasible alternatives available.
3. To correct inconsistencies in open burning control rules within Willamette Valley.
4. Extend burning season to make better use of available burn days in response to public request.
5. Add section to make it clear that the intent of the rule is to reduce smoke nuisance.

c. Documents Relied Upon:

1. OAR Chapter 340, Division 23.
2. Staff report to the commission dated February 23, 1979.
3. Hearing Officer's Report.
4. Communication from Attorney General.

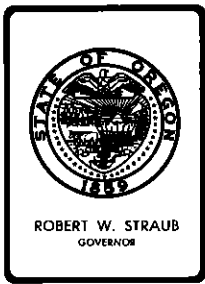
DEPARTMENT OF ENVIRONMENTAL QUALITY



By: E. J. Weathersbee
Administrator, Air Quality
Division

Revised June 14, 1979

Attachment B



Environmental Quality Commission

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Hearing Officer

Subject: Report of Public Hearing of March 21, 1979 re: Proposed Amendments for Open Burning (OAR 340-23-025 through 23-050)

Hearing

Personnel: Hearing Officer: Wayne Cordes
DEQ Representative: Doug Brannock

Background

Summary of Procedure

Pursuant to public notice (attachment 1) published in the Secretary of State Administration Rules Bulletin Volume XVIII, No. 16 of February 15, 1979, pages 33-34, a public hearing was held in Portland in the Multnomah County Courthouse room 602, 1021 Southwest Fourth at 7:00 p.m., to take public testimony on the proposed rule revision. Additionally, newspaper advertisements were made in local newspapers in Portland, Salem, Albany, Corvallis and Eugene on February 16th and 21st.

The hearing record was left open for written comment until March 30, 1979, following the hearing.

During the last week in March, several Mid-Willamette Valley fire chiefs affected by the proposed rule changes alleged they had not been advised of the hearing and proposed changes and requested additional time to comment. As a result, the comment period was extended to April 13, 1979. Each fire district in the Willamette Valley was mailed:

- (1) A copy of Agenda Item G from the February 23, 1979, EQC meeting containing the proposed rule change.
- (2) A copy of the Statement of Need.
- (3) Cover letter (attachment 2)

For distribution, 45 copies of the above items were provided to Lane Regional Air Pollution Authority (LRAPA), 60 copies to the Willamette Valley Regional Office in Salem and 49 were mailed to fire districts in Multnomah, Clackamas, Columbia and Yamhill Counties.



Contains
Recycled
Materials

Respondents

- (1) Oral testimony at the hearing was presented by ten persons.

Theodore Corbet, Portland
Neal Hribar, Portland
Fran Finney, Portland, representing the Portland AQMA Advisory
Committee. Provided copy of written testimony.
Jeanne Roy, Portland, representing the League of Women Voters.
Provided copy of written testimony.
Melinda Renstrom, Portland, representing The Oregon Environmental
Council. (Letter received March 23, 1979.)
Clifford J. Derbach, Beaverton
Aileen McNett, Portland
Kenneth E. Johnson, Portland
Mary Taylor, Portland
Dr. David E. Hamm, Portland, provided motion picture of atmospheric
conditions over Portland.

- (2) Letters prior to March 31 from:

Elmira Grange, Elmira
George Starr, State Representative
Barbara and William E. Krieg, Portland
Mrs. John Alvord, Eugene
State Fire Marshal
Governor Atiyeh
Mrs. Emil Bruseth, Portland
A. R. Robnett, Portland
League of Women Voters of Oregon and Portland
John A. Carson, Portland
Daniel M. Page, Salem
Anna N. Clark, Salem
Linn County Board of Commissioners
Mrs. Robert Spalding, Ashland
Robert Rose, Vancouver, WA
Mrs. Viola Anderson, Salem
John Cunningham, Albany
Joan Patterson, Eugene
Dorothy Thompson, Aumsville
Elizabeth Ryan, Lake Oswego
Oregon Environmental Council, Portland
Donna Nesbit, Portland
Mr. Bert H. Worley, Salem
Mayor of Cottage Grove, William A. Whiteman
Bob Thorn, Salem
H. C. Jacobsen, Portland
Mrs. R. L. Godfrey, Portland
Lamar Newkirk, Portland

Walter F. Brown, State Senator, District 13
Ruth Griffin Stephenson, Portland
Wesley Wolf, Portland
Gloria A. Vesely, MD, Portland
Ivan J. Vesely, Portland
G. R. Watson, West Linn
Donald C. Birch, Gresham
Portland AQMA Advisory Committee

(3) Letters after March 31, 1979:

Lane County Fire District Directors Association
Lisa J. King, Springfield
Scappoose Rural Fire Protection District
Halsey-Shedd RFPD Larry Parker, Chief
Tualatin RFPD, Joseph A. Greulich, Fire Marshal
Stayton RFPD, Ron Tegan, Chief
Lebanon Fire Department, Arthur Fuller, Chief
Adair Rural Fire Department, Dennis L. Haney, Chief
Albany Fire Department, James C. Myers, Chief
Tangent Rural Volunteer Fire Department, Dale McDowell, Chief
West Oregon Forestry District, Jerry Piering, Unit Forester
Clackamas County Fire District #1, Geroge A. Dwelle, Asst. Chief
Lane County Firefighters Association
Lane County Fire Defense Board
Thurston-Walterville Rural Fire Protection District, Jim Nylund, Chief
Lane County Fire District Directors Association (second letter)
Joe Provost, Clackamas
Albany Fire Department, Jim Moore, Fire Marshal
Beavercreek RFPD No. 55, J. R. Crescenzi, Chief

Summary of Testimony by Respondents

(1) Public Hearing

One respondent was flatly opposed to any open burning or extension and thought people should be willing to pay \$20 to \$30 to have trash hauled away. His feeling was that the DEQ budget committed to clean up the air was incompatible with a budget aimed to extend open burning. Another individual thought burning was a particularly serious problem for people with chronic pulmonary or allergic problems and would appreciate anything which could be done.

Four respondents thought the waste material should be used as a resource, ie. chip limbs for fuel or mulch.

Three respondents (the three organized groups: Portland AQMA Advisory Committee, League of Women Voters and Oregon Environmental Council) were supportive of the proposal to postpone the prohibition of open burning,

provided the DEQ followed through with the program outlined in a letter from DEQ to the Portland AQMA Advisory Committee dated March 5, 1979 by obtaining a commitment from cities to implement it.

On extending the burn period in the spring, three expressed disfavor, while two felt the need for more time.

One person observed that many of the burning days were too wet for satisfactory burning. As a result the permitted seasons are too short and good days when they occur outside of the season are lost for use. Another observation was that the addition of "wet or green vegetation" to the prohibited list would make it almost impossible to legally burn after a rain and was tantamount to prohibiting burning.

Six people expressed serious concern for the plight of owners of the larger plots or acreages in the city if restricted by the post-December 1980 ban. They were in favor of continuing the privilege of burning under appropriate meteorological conditions. One expressed the thought that there would be a need for exceptions to an outright ban because the larger lots and small acreages in the city constitute special cases. A blindly applied ban will result in injustices.

Two respondents expressed concern for the fire danger in debris left lying in larger lots if a ban were put into effect.

The need for a definition of agricultural operations was discussed by four respondents.

Three expressed doubts about the seriousness of open burning effects on the ambient air standards since burning is not allowed on bad days. It was suggested that other things may be more important. One person had a motion picture taken from the Council Crest area on a "no burn day" in Portland showing a smoky haze from north of Vancouver, over Portland to Troutdale and Camas. Eastward up the Gorge toward Cascade Locks the air was clear. The inference drawn was that many sources in the metropolitan industrial area were causing the smokey conditions and open burning was not a principal cause.

Finally, one person questioned the advantages of the trade offs for the alternatives suggested. She observed:

1. Landfills are full and available space needed for higher priority material.
2. Chippers besides being expensive are noisy.
3. Additional trucks needed to haul the material require additional use of our precious fuels.

The written testimony presented by the Portland AQMA Advisory Committee and the League of Women Voters is included in Attachment #3.

(2) Written Comments Received from the Public

The 54 comment letters received are in Attachment #4. (available upon request)

The written comments received were overwhelmingly in favor of some kind of extended open burning program. The remainder expressed some kind of opposition to open burning.

A. Comments Offered

The 10 comment letters considered to be opposed to open burning include those from The Portland AQMA Advisory Committee, League of Women Voters, and The Oregon Environmental Council. Although these three groups were supportive of the amendments, their support was only for the purpose of allowing development of alternative practices. They profess to be generally opposed to burning.

The most common comment in opposition was that:

- (a) All burning should be stopped, especially in urban areas. The League of Women Voters and Oregon Environmental Council emphasize this by stating they would not support an extension beyond 1980.

Other comments in opposition were:

- (b) Backyard burning has a very significant effect on our air.
- (c) We should allow only innocuous wiener roasts and barbecues.
- (d) Backyard burning is uncivilized, unsafe, and a nuisance.
- (e) Allow burning only on odd or even days so people could hang out clothes on alternate days and save electricity used by dryers.
- (f) All segments of society must share the responsibility and costs of abatement - the burner should pay to have his debris hauled away.
- (g) City services should be required to contract to have trash picked up.

- (h) Land fills are not needed as, all of the material can be used for mulch.
- (i) Burning ruins our good days.
- (j) Haul trimmings to a centralized area.

B. Comments Favoring Extended Burning

- (a) Of the comments favoring extension of open burning, about 16 came from people representing, or associated with, the fire protection services community. Their comments are generally summarized.
 - (1) More flexible dates are needed for open burning. That burning should be allowed all year from September or October through May or June was frequently mentioned. Also, opposition to setting a date for termination was expressed.
 - (2) Long term stocking of waiting burn piles, especially through the summer, was cited as a particular fire hazard. This problem is acute in rural areas.
 - (3) Enforcement of burning restrictions is lacking or nonexistent in many rural areas, so efforts to prohibit are futile. It is inappropriate for fire department volunteers to get involved in enforcement actions. Burning management is the best answer.
 - (4) Addition of wet or green vegetation is of questionable value although one person agreed with it.
 - (5) Burning during wet portions of year forces burning under less than ideal conditions.
 - (6) We need cost effective alternatives before imposing prohibitions. Volumes in rural areas too great for alternative disposal systems available.
 - (7) Letter permits pursuant to OAR 23-045(7) need to be issued to fire districts so that they are aware of special authorizations.
 - (8) Lane County Fire Services Association expressed desire to be excluded from Willamette Valley special control area.

- (9) Dates for burning are confusing. Use of calendar dates would be preferable.
 - (10) City/urban disposal systems are not available to all. We have already reached an optimum balance between burning and disposal.
 - (11) There is a need to educate the public and let them ask for the rules instead of passing rules and then try to get their cooperation.
 - (12) The rural nonfarm resident is in about the same boat as some agriculturalists when it comes to disposal. Making the distinction between agricultural and domestic open burning is not consistent.
 - (13) There has been inconsistent application of rules regarding domestic waste in various areas of the valley.
 - (14) Scappoose Rural Fire Protection District specifically requested to be removed from the application of the rules as they relate to the Portland metropolitan area and be included and governed under the rules which apply to the remainder of Columbia County.
- (b) The remaining 27 responses came from other governmental units, citizens and organizations. Their comments are summarized following:
- (1) Nine expressed a desire to extend the burning period beyond 1980 and 1982.
 - (2) Landfills are not available, there is no room on property to pile the trash. Extra fuel for transporting to the dumps in short supply.
 - (3) Calendar burn periods are arbitrary, more time is needed.
 - (4) Piles waiting to be burned are a hazard and an eyesore.
 - (5) It would help if people would learn to stack piles and keep them dry. Burning wet material causes problems.
 - (6) Two acre gardens are a retirement joy, everything possible is composted but there is a need to burn brush, prunings, flood debris, storm debris, and for disease control. Debris removal is costly and adds to inflation

bite. Government should not impose unnecessary expenses. It may lead to a need to destroy trees and shrubs.

- (7) The CO₂ - oxygen cycle is benefited by plant growth and burning.
- (8) We should be working on using waste as a fuel resource.
- (9) Alternatives are not attractive. Chipping is difficult, dangerous, costly, and noise is objectionable.
- (10) Take controls off burning except for bad days.
- (11) Local government needs more responsibility in deciding burn days rather than having responsibility in the hands of a centralized government.
- (12) Doubt was expressed as to the health damage aspects of backyard burning.

Hearing Officer Observations

Generally, advocates of complete cessation of open burning seemed to have in mind the metropolitan areas, while advocates of liberalized burning conditions seemed to have in mind the rural setting. It was apparent, however, that there are isolated areas within the urban boundaries which have a brush problem not unlike those in rural areas. The volume of debris generated in such areas can become substantial. It is recommended that any study of alternatives should take specific cognizance of these problems, otherwise unnecessary injustices may occur.

Respectfully submitted,

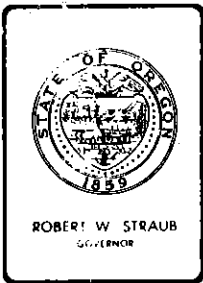


Wayne Cordes, Hearing Officer

LDBrannock:jl
229-5836
May 23, 1979

Attachment 1

Notice of Public Hearing



Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

MAILING ADDRESS: P.O. BOX 1760, PORTLAND, OREGON 97207

Prepared: February 1, 1979
Hearing: March 21, 1979

NOTICE OF PUBLIC HEARING

A CHANCE TO BE HEARD ABOUT:

Open burning rule revisions and extension of domestic open burning dates in Willamette Valley counties.

The Department of Environmental Quality is proposing amendments to regulations extending domestic open burning in the Willamette Valley counties for the years 1979 through 1982. In the Portland Metropolitan area, this extension would only be through 1980. Adoption of these amendments would modify sections that are currently in the State's Clean Air Act Implementation Plan. The hearing will be held in Portland on March 21, 1979.

WHAT IS THE DEQ PROPOSING?

Interested parties should request a copy of the complete proposed rule package.

The proposed rule permits open burning of yard clean-up materials from the 3rd Tuesday in April through June 15 and the 4th Tuesday in October through December 15 in Willamette Valley counties.

WHO IS AFFECTED BY THIS PROPOSAL?

Citizens of the 10 Willamette Valley counties where open burning occurs.

HOW TO PROVIDE YOUR INFORMATION:

Written comments should be sent to the Department of Environmental Quality, Air Quality Division, PO Box 1760, Portland, OR, 97207, and should be received by March 20, 1979.

Oral and written comments may be offered at the following public hearing:

<u>City</u>	<u>Time</u>	<u>Date</u>	<u>Location</u>
Portland	7:00 pm	March 21, 1979	Multnomah County Courthouse Room 602 1021 SW Fourth

WHERE TO OBTAIN ADDITIONAL INFORMATION

Copies of the rules may be obtained from:

Mr. Bob Harris
Department of Environmental Quality
Air Quality Division
522 SW Fifth Ave
PO Box 1760
Portland, Oregon 97207
(503) 229-5942

LEGAL REFERENCES FOR THIS PROPOSAL

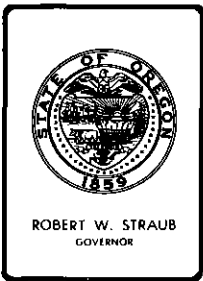
This proposal amends OAR 340-23-025 through 340-23-050. This rule is proposed under authority of ORS 468.020 and ORS 468.295. This proposal does not affect land use.

FURTHER PROCEEDINGS

After public hearing the Commission may adopt rule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. The adopted regulations may be submitted to the Environmental Protection Agency as part of the State Clean Air Act Implementation Plan. The Commission's deliberation should come in December as part of the agenda of a regularly scheduled Commission meeting.

Attachment 2

Letter from the Department of Environmental
Quality to Willamette Valley
Fire Protection Services



Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

MAILING ADDRESS: P.O. BOX 1760, PORTLAND, OREGON 97207

229-5836

March 28, 1979

• Willamette Valley
Fire Protection Services

Dear Fire Chief:

You may have heard the Department of Environmental Quality is proposing to postpone the termination of the spring and fall domestic open burning periods in the Willamette Valley to allow time to identify viable alternatives and develop these or conclude that alternatives are not practicable. A public hearing on this matter was held in Portland on March 21st and the record was left open for comments until March 30, 1979.

It was the intention of the Department to give a hearing notice and a copy of the proposed rules to each fire district in the Valley so that you would all have a chance to comment. Unfortunately the staff member who was handling the rule revision was also preparing to leave the Department and the intention to be sure each of you was informed was not carried out. The oversight was entirely our fault and we are sending this letter to try to correct the error and to receive comments you wish to make.

Attached is a report prepared for the Environmental Quality Commission in February. Included is a copy of the proposed rule and a copy of a letter from the Portland AQMA Advisory Committee. Please review the rule and if you wish to comment, please do so in writing as soon as possible. Your comments may be handwritten. The Environmental Quality Commission will consider these rules for adoption at their April 27th meeting in Portland. There will not be any public testimony taken at that time so to be considered your comments must reach me by April 13th.

There are five changes in the rules which are listed on the third page of the staff report. Basically the changes are: (1) postpone the dates for permanently prohibiting domestic open burning, (2) slightly change the start and end of the burning periods, lengthening the spring period about two weeks and (3) add the words "wet or green vegetation" to the list of materials prohibited for open burning.

Remember if you wish to comment on the proposed rule changes, be sure to get your written comments into this office as soon as possible but not later than April 13, 1979. If you have questions you may call me in Portland at 229-5836 or use the toll free WATS line 800-452-7813 and ask for me. I can then call you back.

Sincerely,

L. D. Brannock
Meteorologist,
Air Quality Division

LDB:jl

Attachment 3

Written Testimony Received at
the Public Hearing, March 21, 1979

TESTIMONY ON PROPOSED AMENDMENTS TO OPEN BURNING RULES

by

League of Women Voters of Oregon and
League of Women Voters of Portland

March 21, 1979

If the burning ban is to be extended again, we suggest that this be done under the following conditions:

The Department of Environmental Quality (DEQ) shall develop a plan in conjunction with the Metropolitan Service District to eliminate open burning within the Portland Air Quality Maintenance Area by July 1, 1980. The plan shall contain these elements:

- (1) The DEQ shall promptly investigate and develop feasible alternative disposal methods.
- (2) The DEQ shall communicate to each city and county the effect of open burning on air quality, the alternative disposal methods, and the requirement to determine the method it will implement.
- (3) Each city and county shall enter into an agreement with the DEQ to implement a disposal plan for domestic brush.
- (4) When a city or county has made a commitment to implement a specific disposal plan, a timetable for implementation shall be approved by the Environmental Quality Commission.

*Received at hearing
3/21/79*

THE LEAGUE OF WOMEN VOTERS OF OREGON
494 STATE STREET - SUITE 216
SALEM, OREGON 97301
581-5722

February 15, 1979

Mr. William Young, Director
Oregon Department of Environmental Quality
522 S.W. Fifth Avenue
Portland, Oregon 97204

Dear Mr. Young,

The Oregon League of Women Voters adopted a position on air pollution in 1968. At that time, we agreed that all segments of society must share responsibility for improved air pollution abatement practices. We agreed that one of the areas for which individuals need to accept responsibility is backyard burning. The Oregon League of Women Voters stands by this position today.

We are very disappointed by the lack of progress toward an end to backyard burning in the Portland area. The Oregon League of Women Voters supported the original Columbia Willamette Air Pollution Authority (CWAPA) proposal in 1970 to eliminate backyard burning in urban areas. Because of a lack of alternatives, however, we accepted as reasonable the CWAPA revision to allow twice-a-year burning until 1972.

We expected that during the two-year interim CWAPA would have made arrangements with public solid waste agencies for improved methods of handling domestic trimmings. However, when the 1972 deadline approached, CWAPA felt compelled to request an extension to 1976 because no alternatives had been made available. When the 1976 deadline approached, and the Department of Environmental Quality (DEQ) had assumed CWAPA's responsibilities, the DEQ requested another two-year extension. Now the 1979 deadline is approaching and we understand that DEQ will request another extension.

Enough is enough!

It appears that no one is taking on the task of developing alternatives to open burning. The DEQ has consistently refused to face the issue head on. Apparent lack of new landfill sites and expectations of Metropolitan Service District proposals have been given as excuses for this delay.

Letter to Mr. William Young, Director
Oregon Department of Environmental Quality
February 15, 1979

Page Two

Why are we waiting for landfill or burning options? Why aren't the cities picking up the yard trimmings and selling them for mulch or developing a composting system? Why has there been no education of the public on how to handle their yard trimmings without burning them?

The Portland Air Quality Maintenance Area (AQMA) still needs to reduce particulates. We expect that controls on industry are about as tight as they are going to get. On behalf of the League of Women Voters of Oregon, we are asking now for some action to prohibit backyard burning in the Portland AQMA.

Sincerely,

Annabel Kitzhaber

Annabel Kitzhaber
President
League of Women Voters of Oregon

Judy Keltner

Judy Keltner
President
League of Women Voters of Portland

cc: Mayor Neil Goldschmidt, City of Portland
Rick Gustafson, Executive Director, Metropolitan Service District

TESTIMONY REGARDING PROPOSED AMENDMENTS
TO RULES FOR OPEN BURNING

By the AQMA Advisory Committee
For the EQC public hearing, March 21, 1979

The Portland AQMA Advisory Committee feels that through planning and cooperation with local jurisdictions the need to continually extend the open burning ban will no longer exist. William Young's letter to us of March 5, 1979 indicates that he is willing to commit the Department's resources to the development of alternative disposal methods. The Committee supports the proposed extension under the condition that the DEQ will implement the following schedule, leading to a ban on backyard burning by December 31, 1980.

- (1) DEQ will request a firm commitment from MSD for manpower to define feasible alternatives and coordinate their implementation.
- (2) The DEQ (Mark Hope) by July 1, 1979 will investigate alternative disposal methods including those attached to this letter. The investigation will include cost considerations.
- (3) The DEQ (Carl Simons) by July 1, 1979 will develop a brief paper that demonstrates the effect of outdoor burning on ambient air standards, health and nuisance conditions. The paper will include information about backyard burning bans in other areas.
- (4) The DEQ (Dave Gemma) by July 1, 1979 will prepare pamphlets for public education on the problem, informing people of feasible alternatives to burning, preparing them for termination of burning.
- (5) The AQMA Committee, with the assistance of DEQ, will communicate to each city and county by July 1, 1979 the effect of open burning on air quality, the alternative disposal methods, and the need to determine the method it will implement.
- (6) The DEQ (Bob Gilbert) by October 1, 1979 will commence developing alternatives with each of the local jurisdictions and/or establish that the solution is regional and that MSD will implement alternatives or portion of alternatives.
- (7) The AQMA Committee by December 1, 1979 will review the open burning alternatives and implementation schedule(s). The committee will conduct public meetings.

Received at hearing

- (8) The AQMA Committee by January 1, 1980 will submit the recommended plans to the EQC.

SOME ALTERNATIVES TO OPEN BURNING

1. City make agreement with landfill operator to chip brush and use chips for landfill cover, or city chip brush and sell chips to landfill operator.
2. City shred brush and compost it. Sell compost. (Berkeley)
3. City buy or lease more portable chippers and visit neighborhoods on rotating basis as Portland is doing now for city storm debris.
4. City chip domestic brush at parks or other central neighborhood sites on established dates.
5. City use trucks to pick up brush which people leave out near street. (Old Westbury, N.Y.)
6. City pay haulers to pick up domestic brush. (Gladstone)
7. Haulers pick up brush charging customers extra.
8. City require haulers to pick up brush on designated dates.
9. People deliver brush to burning site in city on designated dates. High temperature burning methods are used.
10. City establish leaf pick up program and compost leaves. City could use compost or give it to gardeners.

ATTACHMENT 4

Comment Letters Received
from the Public

These letters are too numerous to duplicate but are available for inspection in the Air Quality Division of the Department of Environmental Quality, 522 S. W. Fifth Avenue, Portland, Oregon.

Attachment C

February 9, 1979

Mr. William H. Young
Oregon Department of Environmental Quality
522 SW Fifth Avenue
Portland, Oregon 97204

Dear Mr. Young:

The Portland AQMA Advisory Committee is concerned about the continuous delay of the open burning ban. Domestic rubbish burning was prohibited in urban areas in July of 1970. Yet 9 years have passed, and residents, even in densely populated areas, are being allowed by DEQ to burn their yard trimmings. Attached is a history of the initial action by CWAPA and the variances which have been granted approximately every two years.

The reason for the first variance granted in 1971 as well as the subsequent ones is that solid waste alternatives have not been developed. Therefore, people have continued the habit of burning which is the quickest and cheapest means of disposal.

It is recognized that outdoor burning adversely affects health and visibility.

Our recommendations to you are these:

1. That the DEQ coordinate an effort among the MSD and local jurisdictions to provide alternatives to open burning.
2. That the DEQ not wait until landfill and large-scale burning options become available.
3. That the alternatives of chipping and composting be implemented wherever possible. Chips and compost are valuable resources as mulch or landfill cover.
4. That the DEQ consider limiting the variance to rural areas where the disposal options are fewer.
5. That the DEQ accompany the final phase-out of open burning with a major public information effort aimed at educating the public about the impact of burning and the alternative disposal methods.

Other committees have developed positive programs to handle yard trimmings so that the public does not feel the need to burn. We would like you to investigate these programs and to give them full consideration prior to further extensions. Attached is a sheet outlining some of the programs we have heard about.

Mr. William H. Young

Page 2

We would like to see a plan of action which can be implemented within a specific time frame. We plan to discuss this matter again at our February 27 meeting and would appreciate your comments at that time.

Respectfully,

A handwritten signature in cursive script that reads "Steve Lockwood". The signature is written in black ink and is positioned above the typed name and title.

Steve Lockwood, Chairman
Portland AQMA Advisory Committee

mg

cc: Mayor Neil Goldschmidt, City of Portland
Commissioner Connie McCreedy, City of Portland
Rick Gustafson, Metropolitan Service District
Joe Richards, EQC
Grace Phinney, EQC
Ronald Somers, EQC
Jackie Hallock, EQC
Al Densmore, EQC

ALTERNATIVES OF BACKYARD BURNING

Portland. Cloudburst, a local garbage company, had a CETA grant to determine what to do with compostable materials. One idea of theirs was to buy a shredder mounted on a trailer which would be taken through a community each month to shred people's yard trimmings. Norwood, Village in Bellevue, Washington does this.

The City of Portland already has a leaf pick-up program and a Christmas tree chipping program. These could be expanded to include limbs and branches.

Gladstone pays its hauling company to pick up people's yard trimmings.

Eugene passed an ordinance against backyard burning in 1970. Vern Adkison of Lane Regional Air Pollution Authority says there has been close cooperation between air quality and solid waste personnel. They have made it convenient for people to haul trimmings by establishing drop boxes; they have kept up with landfills; and they have a new transfer station planned. At the time of the burning ban, chipping companies were encouraged so that people can hire them to do big jobs. Private chippers are often shared within neighborhoods. The city has a good leaf pick-up service and gives these away to people with gardens. The county has initiated a composting project which will begin this spring. (Lane Regional is ready to extend their burning ban, but is having a hard time getting Springfield to go along because Portland and Salem aren't doing anything.)

Berkeley began a composing leaf banking program in 1976. Plant debris from parks and private individuals is delivered to a composting site on city property not far from the landfill. Citizens pay a nominal fee and get a voucher to obtain finished compost. The material is ground by a Tub grinder hammermill into a fine mulch and is then windrowed.

Nashville collects yard trimmings from residences. It shreds and composts the material on a field. It uses the compost as a soil conditioner in parks.

Old Westbury, New York in 1971 began making wood chips, as well as leaves, available to residents. People may leave limbs and branches no longer than four feet near the roads. The city collects and shreds them.

Many cities require people with brush to deliver it to a certain site at the landfill. Public works people shred it and spray it over the landfill. The advantage is that this saves money for landfill cover. Jerry Powell, a Portland recycling consultant and chairman of the Solid Waste Advisory Committee, says he doesn't know why Portland isn't doing this with the debris from the storm.

HISTORY OF THE OPEN BURNING BAN IN THE NORTHWEST REGION

A phase-out of open burning was begun by the Columbia-Willamette Air Pollution Authority in 1968.

- July 1968 No outside rubbish burning by industrial or commercial sources or apartments.
- July 1969 No large land clearing debris burning in suburbs surrounding Portland. This was extended to an area as far as Forest Grove, Gresham, Canby, and St. Helens by January 1970.
- July 1970 No domestic rubbish burning in urban areas. Washington County was given a variance until January 1971 to allow development of solid waste sites. All rural fire districts of the four counties were to be in compliance by January 1972. (Lane Regional and Mid-Willamette Air Pollution Authorities instituted the same ban.)

The last phase of the ban aroused some resistance. Many people on both sides of the issue began to express their opinions on backyard burning. A March 1971 CWAPA staff report stated that compliance was good, but the prohibition had caused solid waste problems, particularly for those with large acreages. It suggested that if the Board felt it necessary it could grant a variance to allow households to burn wood, needle or leaf materials in April and May. But it also stated its position:

"It is the staff opinion, open burning must be eliminated to achieve desirable air quality and that continued open burning is not an acceptable solution to the solid waste problem . . . the staff cannot justify any permanent modifications in the existing open burning rules."

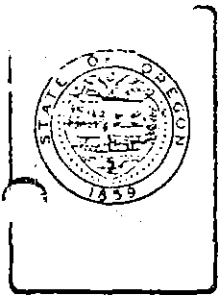
A bill was introduced in the legislature to permit individuals to burn wood and leaves from their own residences until 1975.

Because of the controversy, CWAPA's Advisory Committee agreed to hold four public hearings in August 1971. They heard from the public that there was no organized means of disposing of yard trimmings. The problem was mainly in rural and suburban areas. People in populated areas seemed to be in favor of no burning. The committee recommended that CWAPA allow spring and fall burning for a limited time. The committee also expressed frustration because no one was doing anything about solid waste and agreed to meet with the appropriate agencies to encourage solutions.

Variances continued to be granted:

- 1972 CWAPA agreed to continue to allow twice a year burning with a cutoff date of January 1975.
- 1975 DEQ requested an extension to July 1977.
- 1977 DEQ requested an extension to July 1979.
- 1979 DEQ will request an extension to 1981.

Attachment D



Department of Environmental Quality

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207

March 5, 1979

Mr. Steve Lockwood, Chairman
Portland AQMA Advisory Committee
10725 SW Wilsonville Road
Wilsonville, Oregon 97070

Dear Mr. Lockwood:

Based on your letter of February 9, 1979 my staff has developed the following plan of action to review the Domestic Open Burning issue in the Portland Air Quality Maintenance Area (AQMA).

<u>Date</u>	<u>Responsible Party</u>	<u>Required Action</u>
July 1, 1979	Mark Hope - Solid Waste Division (229-5913); coordinated with MSD - Merle Irvine (221-1646)	Define feasible alternatives for each municipality considering landfill status; hauler arrangements like Gladstone; processing equipment available for large/small mulching, chipping, composting and marketing of materials, pick-up; processible waste sites established by MSD; grants available to provide equipment.
	Carl Simons - Air Quality Division (229-6279)	Based on the PACS report, put together a brief paper that demonstrates effect of outdoor burning on Ambient Air Standards, health and nuisance conditions. Paper should also cover success of banning outdoor burning in other areas.
	Dave Gemma - Public Affairs (229-6271)	Prepare proposed pamphlets for public education of problem, how each individual can contribute to solving problem, feasible alternatives; prepare public for termination of burning.



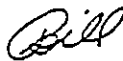
Contains
Recycled
Materials

Mr. Steve Lockwood
Page 2
March 5, 1979

<u>Date</u>	<u>Responsible Party</u>	<u>Required Action</u>
July 1, 1979	Open Burning Sub- committee	Inform local entities that by January 1, 1980 the Portland AQMA may recommend to the EQC alternatives to domestic open burning together with a schedule for implementing those alternatives. Ask for local commitment to aid in evaluation of alternatives to open burning.
October 1, 1979	Bob Gilbert - Northwest Region (229-5209)	Develop open burning alternatives with each entity and/or establish that solution is regional and that MSD will implement alternatives or portion of alternatives.
	Open Burning Sub- committee	Conduct public hearings (3) on alternatives to domestic open burning. One meeting for each of the three counties.
December 1, 1979	Portland AQMA Committee	Select open burning alternative(s) and implementation schedule(s). Conduct public hearing(s).
January 1, 1980	Portland AQMA Committee	Recommendation to EQC.

Coordination of our Open Burning effort in the Portland AQMA has been assigned to Bob Gilbert. Any comments or suggestions you may have will be most welcome.

Sincerely,

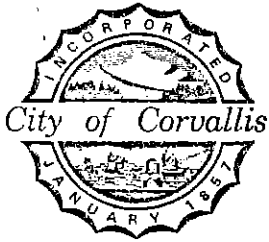


WILLIAM H. YOUNG
Director

REG/mkw

cc: Air Quality Division, DEQ ✓
Attn: Carl Simons
Metropolitan Service District
Attn: Merle Irvine
Northwest Region, DEQ
Attn: Bob Gilbert
Public Affairs, DEQ
Attn: Dave Gemma
Solid Waste Division, DEQ
Attn: Mark Hope

Attachment E



CORVALLIS FIRE DEPARTMENT
465 N. W. VAN BUREN AVENUE
CORVALLIS, OREGON 97330

(503) 757-6971

March 27, 1979

Mr. David St. Louis
Department of Environmental Quality
Willamette Valley Region
1095 25th St., S. E.
Salem, Oregon 97310

Dear Mr. St. Louis:

The Corvallis Fire Department requests that the recommended period of comment time for the proposed open burning regulations be extended until two weeks after we receive such regulations. Since we have not yet received them and we have not had an opportunity to comment, this extension is vital.

Your cooperation in this matter is greatly appreciated.

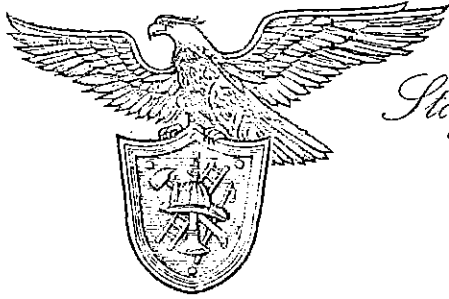
Sincerely,

Lavern Cary
Fire Marshal

LC/bw

RECEIVED
MAY 28 1979

OFFICE



Stayton Fire Protection District

P. O. BOX 8 : STAYTON, OREGON 97383

March 27, 1979

Dave St.Louis
Department of Environmental Quality
1095 25th S. E.
Salem, Oregon 97310

Dear Mr. St.Louis;

It has just recently come to my attention that DEQ are considering changes to backyard burning rules that has an effect on all of us. However, I nor my District have not had an opportunity to see or have any input into these rules and the cutoff date is upon us.

I hereby solicit that the date for input be extended 2 weeks and a copy of the proposed rule changes be forwarded to us in order that we can have a look at them.

Thank you,

A handwritten signature in cursive script, appearing to read "Ron Tegen", written over a horizontal line.

Ron Tegen
Fire Chief

Jefferson Fire Protection District

P. O. Box 113 Phone 327-2822

Jefferson, Oregon 97352

March 27, 1979

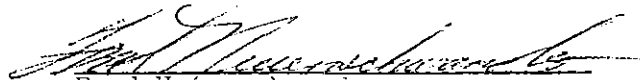
To: DEPARTMENT OF ENVIRONMENTAL QUALITY
1095 25th St. S.E.
SALEM OREGON 97310

SUBJECT: NEW PROPOSED OPEN BURNING REGULATIONS

The Jefferson Rural Fire Protection District do request that the comment period for the proposed open burning regulations be extended until two weeks after we receive the new proposed regulations.

We have not received a copy of the new proposed regulations and feel that our input will be very helpful for your office and the people in our Fire District whom we serve.

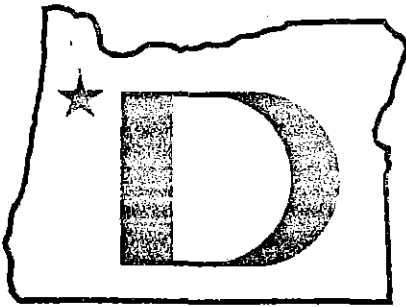
Thank you



Fred Neuenschwander
Jefferson RFPD
Fire Chief

DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
MAR 29 1979

SALEM OFFICE



City of Dallas --Office of the Fire Chief

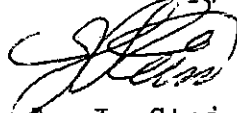
March 27, 1979

Mr. Dave St. Louis
Department of Environmental Quality
1095 25th Street S.E.
Salem, Oregon 97310

Dear Dave,

As I have not as yet received the proposed rule changes for backyard burning, I would appreciate an extension of the expiration date for comments on the proposed changes.

Sincerely,



A. J. Stein
Fire Chief

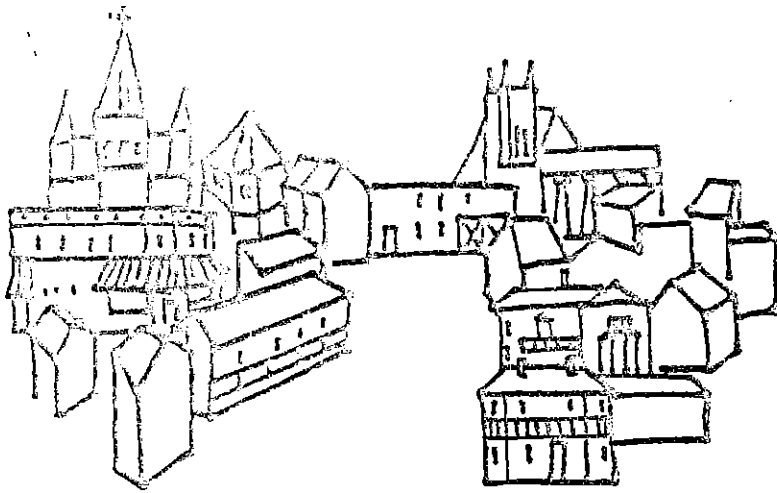
AJS:bc

City of Dallas
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED

MAR 28 1979

CITY OF DALLAS



City of Albany

March 28, 1979

Dave St. Lewis
D.E.Q.
1095 25th St. SE
Salem, OR 97310

Dear Mr. St. Lewis:

It was brought to my attention that there is a hearing by D.E.Q. regarding proposed changes in backyard burning rules. I understand that these changes were to be sent out to all fire departments for review.

The Albany Fire Department did not receive a copy. I am requesting that an extension be allowed to give us time to obtain and review a copy of the changes.

Sincerely,

Jim Moore
Asst. Chief - Fire Marshal
Albany Fire Department

JM/db

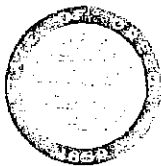
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED

APR 2 1979

ALBANY OFFICE

Attachment F



DEPARTMENT OF JUSTICE

PORTLAND DIVISION
500 Pacific Building
520 S.W. Yamhill
Portland, Oregon 97204
Telephone: (503) 229-5725

March 22, 1979

Mr. Robert Harris
Environmental Specialist
Department of Environmental
Quality
Yeon Building
P. O. Box 1760
Portland, Oregon 97207

Re: Definition of Agricultural Operations

Dear Mr. Harris:

At long last, enclosed is a proposed amendment to OAR 340-23-030 dated March 21, 1979, which contains a proposed new definition of the term "agricultural operation." I apologize for the long delay in getting this to you.

As you can see, I have substantially revised your draft.

ORS 468.290 provides in pertinent part as follows:

"Except as provided in this section and in ORS 468.450 [authority for Environmental Quality Commission (EQC) to prohibit burning based on atmospheric conditions], 476.380 [fire permits] and 478.960 [fire permits], the air pollution laws contained in this chapter do not apply to:

"(1) Agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, except field burning which shall be subject to regulation pursuant to ORS 468.140, 468.150, 468.455 to 468.480 and this section;" (Emphasis added).

The EQC has adopted rules pertaining to field burning. OAR ch 340, div 26. It has also adopted rules pertaining to open burning. OAR ch 340, div 23. In its open burning rules, the EQC has exempted therefrom "[o]pen burning as a part of agricultural operations which is regulated in part by OAR Chapter 340, Division 26, Agricultural Operations."

OAR 340-23-035(4). However, the EQC has not expressly incorporated the entire statutory exemption in its open burning rules. Neither has it yet defined "agricultural operations" in its rules. The lack of a definition has caused problems in the enforcement of the open burning rules in at least two types of situations.

One situation arose where owners of rural or suburban property which was used primarily for residential purposes claimed "agricultural operation" status because of small-scale farms or orchards on portions of their property.

A second enforcement problem arose where clearing was done on idle land or land previously used for farm purposes in preparation for construction of non-agricultural uses and "agricultural operation" status was claimed as a subterfuge to evade EQC open-burning prohibitions.

Our proposed definition would deal with each of those problems. First, by requiring property to be used "primarily for the purpose of obtaining profit in money by . . . selling crops . . . [etc.]" and by excluding dwellings, the proposed definition would not allow property primarily used for residential purposes to claim that burning was part of any "agricultural operation." Second, the requirement that the activity be necessary to the purpose of "raising, harvesting and selling crops . . . [etc.]" would prevent the burning of debris from land-clearing operations in preparation for construction of non-agricultural uses from claiming that that activity was a "agricultural operation."

I have proposed to eliminate much of the language which you proposed. I believe that my draft has the benefit of brevity. I will discuss the reasons for omitting certain language contained in your draft. First, I have not referred to the "cultivation of land." Of course, the cultivation of soil is an agricultural operation. As such, it comes within the agricultural exemption from the Commission's air pollution rules. However, in the context of an open-burning prohibition, the cultivation of soil has no meaningful application. Therefore, I have proposed to delete it. Second, I have omitted your language "horticultural commodity." I have done so because I am of the opinion that the definition of "horticulture," including the raising of flowers, etc., is much broader than any reasonable definition of agriculture and, therefore, was not intended by the legislature. I have also eliminated a reference to "bees" for the same reason. Next, I have omitted the language "shearing, feeding, caring for, training and management of animals" for the reason that the word "animals" is too broad and would include, for example, a kennel; and to the extent that that language

refers to livestock and fowl, I believe it is redundant of the word "raising."

You proposed that if the activity met any one of five criteria that it would, therefore, be considered as an "agricultural operation." I have not included any of those criteria for several reasons.

First, your proposed criteria are essentially a list of evidentiary facts which bear upon the issue of whether or not an activity in question is an agricultural operation. As such, they are matters which may be presented in order to prove a claimed agricultural operation status under my proposal. However, no one criterion should be conclusive for the reason that no one criterion is conclusive on that issue as a matter of fact. For example, the mere fact that someone fills out an Internal Revenue Service Form 1040, Schedule F, showing income or loss, should not be conclusive because it would not necessarily reflect the overall primary utilization of property. Neither is the clearing of three acres of land necessarily indicative of the total use of the property in question. Furthermore, I do not know enough about successful farm operations to judge whether or not three acres is a rational figure. It may be that a viable "agricultural operation" may be conducted on less than three acres. It is clear that clearing of three acres to grow a crop in one growing season would not prevent the owner from constructing a commercial development on the cleared land immediately following the next growing season without violating the open-burning rules by reason of your proposed definition. Neither is the designation by the taxing authority of the particular piece of property as a farm or timber lot necessarily indicative of the actual use of that lot. Finally, the system of statements and agreements in writing as to the use or proposed use of the property would appear to be administratively burdensome and perhaps unreasonable to require. As I indicated earlier, instead of being conclusive factors in making the determination, those criteria should rather be left unstated, and the same matters could more logically be brought forth as evidence which may be persuasive or unpersuasive as the circumstances may be.

In preparing my draft of the definition, I have borrowed heavily from the definition of "farm use" contained in ORS 215.203(2)(a) which deals with the establishment of exclusive farm use zones. Borrowed directly from that definition was the following: "the construction and use of dwellings customarily provided in conjunction with the agricultural operation." In a sense, this is redundant because, in the words of the preceding portion of the proposed definition, a farm residence is not "necessary" for the purpose of "raising, harvesting and selling crops," etc.

However, since burning on small rural and suburban lots which are used primarily for residences has posed a problem, my proposal clarifies that the residence itself is not an "agricultural operation" even if it is used incidental to a legitimate "agricultural operation." Therefore, the question then becomes whether the primary purpose of the unit of property upon which the burning took place is primarily for "raising, harvesting and selling crops," etc., or for residential purposes. Of course, one way to establish that primary purpose would be to compare the market value of the residence and supporting real estate with the market value of the remainder of the real property which was utilized for raising crops or livestock.

You will also note in my proposed draft definition that the emphasis is upon making "a profit in money by raising, harvesting and selling crops . . . [etc.]." The requirement of selling for a profit in money will eliminate from the definition home gardens used for subsistence.

My proposed language that the "activity on land currently used primarily for the purpose of obtaining a profit in money by raising . . . crops . . . [etc.]" would exclude from agricultural operations the clearing of real property which has not previously been used for agriculture with the purpose of subsequently devoting its use to agriculture.

I would like to review one further change which I have made in your draft. It does not appear that the legislature intended to include Christmas tree, lumber and timber operations within the scope of the "agricultural operation" exemption. I understand you intended to delete reference to those kinds of operations from your proposed definition. Moreover, those operations are generally within the purview of the State Department of Forestry and only under unusual circumstances would they fall within our enforcement jurisdiction.

Although I recommend that the criteria which you have enumerated not be included as conclusive factors, a list of persuasive but not conclusive factors for consideration in making the determination could be set forth in the rule with an introductory phrase such as "in making any determination as to whether or not a particular activity is an agricultural operation, the Department shall consider whether or not: (a) [etc.]." However, I do not think that is necessary. I think that such a list would make the definition unnecessarily long and that the consideration of those criteria is implicit in the definition itself, but it could be added if it were thought to be desirable.

Mr. Robert Harris
Definition of Agricultural Operations
March 22, 1979
Page 5

One proposal which I have not drafted but which also could be considered would be a sort of variation from your proposed criteria (b). If it is factually reasonable, you might consider setting some minimum size of lot for any consideration as an agricultural operation. For example, the introductory language could be changed to read as follows: "'Agricultural Operation' means any activity on at least three acres of land" Of course, whatever number were picked would have to be reasonable.

Please call me if you have any questions.

Sincerely,



Robert L. Haskins
Assistant Attorney General

RLH:kth
Enclosure

PROPOSED AMENDMENT TO
OAR 340-23-030

March 21, 1979

Add the following as a new subsection (1) of OAR 340-23-030
and renumber the remaining subsections accordingly:

"OAR 340-23-030. As used in these rules
unless otherwise required by context:

(1) "Agricultural Operation" means an activity on land currently used primarily for the purpose of obtaining a profit in money by raising, harvesting and selling crops or by the raising and sale of, or the produce of, livestock or poultry, which activity is necessary to serve that purpose; it does not include the construction and use of dwellings customarily provided in conjunction with the agricultural operation."

Attachment G



DEPARTMENT OF JUSTICE

PORTLAND DIVISION
500 Pacific Building
520 S.W. Yamhill
Portland, Oregon 97204
Telephone: (503) 229-5725

June 1, 1979

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
JUN 04 1979

AIR QUALITY CONTROL

Mr. Douglas Brannock
Department of Environmental
Quality
Yeon Building
522 S.W. Fifth Avenue
Portland, Oregon 97204

Re: Proposed Amendment to Prohibit Creation of Nuisances
and Public Safety Hazards in Open Burning, OAR
340-23-040

Dear Doug:

This is in response to your telephone call of May 23, 1979, and your memorandum of the same date, in which you forwarded to me a proposed amendment to OAR 340-23-040.

In that proposed amendment, you suggested that the Commission create an entirely new provision and number it as subsection (6). Among other things, your proposal would prohibit a person from "[causing] a nuisance to his neighbor or hazard to public safety in the surrounding area." Enclosed is a document entitled Proposed Amendment to OAR 340-23-040 Re Open Burning, dated June 1, 1979. I have attempted to simplify the prohibitory language which I have enumerated as paragraph (a). You will note that I have taken out any reference to a "person" "causing" or "allowing" the prohibited open burning. Rather, I have merely indicated that causing a nuisance or a hazard is prohibited. The person that is prohibited can be determined by referring to OAR 340-23-040(3): "Any person who owns or controls . . . [etc]."

Mr. Douglas Brannock
June 1, 1979
Page 2

Please note that I have included the designations of "private" and "public" in referring to nuisances. The law has established a distinction between the two and therefore a reference merely to nuisance might be misconstrued.

You will note that I have deleted your references to "to his neighbor" and "in the surrounding area." I do not think that it would be reasonable to limit the protected persons to the neighbors of the violator or to public safety hazards which are created in the surrounding area. If the nuisance affects more than the violator's neighbor or causes a public safety hazard beyond the surrounding area, the act is even more reprehensible and should be prohibited.

I propose to delete your second proposed sentence for the reason that it appears to me to be redundant. If the responsible person is prohibited from creating a nuisance or hazard, it follows that if he wishes to prevent a violation he must take the necessary steps.

I also propose that the prohibition apply not only to open burning which is authorized by the rules, but also to any open burning which is not authorized by the rules. In other words, a person who violates the open burning rules by, for example, burning at the wrong time or in the wrong place should not be free to cause a nuisance or safety hazard without the threat of further penalty.

Regarding your proposed third sentence, I think that the responsible person should have the obligation to abate the nuisance or hazard when it occurs, irregardless of whether or not a "complaint is registered" by anyone, whatever that might specifically mean.

Finally, I proposed to delete your final sentence as it appears to be an unwarranted modification of the agency's authority to issue a civil penalty for most if not all open burning violations. The language which you propose ("Repeated offenses") would allow violators one violation free of any

Mr. Douglas Brannock
June 1, 1979
Page 3

threat of a civil penalty. Such does not appear warranted. In fact, it appears to be contrary to the legislative intent. See ORS 468.125(2). It would also be contrary to present Department enforcement policies. Finally, initial civil penalty action is taken by the Department, rather than the Commission, as specified in your proposal.

Please call me if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robb", with a long horizontal flourish extending to the right.

Robert L. Haskins
Assistant Attorney General

ej

1 PROPOSED AMENDMENT
2 TO OAR 340-23-040
3 RE OPEN BURNING

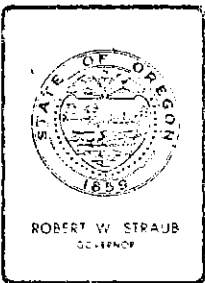
4 Assistant Attorney General
5 Robert L. Haskins
6 June 1, 1979

7 The following shall be added to OAR 340-23-040 as a
8 new subsection (6), and the other subsections shall be
9 renumbered accordingly:

- 10 6. (a) Open burning which creates any of the
11 following is prohibited:
12 (i) a private nuisance;
13 (ii) a public nuisance;
14 (iii) a hazard to public safety.

15 (b) If paragraph (a) hereof is violated,
16 the person or persons responsible for
17 the open burning under these rules
18 shall immediately abate the nuisance
19 or hazard.

20 (c) This subsection applies equally to
21 otherwise authorized and unauthorized
22 open burning.
23
24
25
26



Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

MAILING ADDRESS: P.O. BOX 1760, PORTLAND, OREGON 97207

May 23, 1979

TO: Rob Haskins

FROM: Doug Brannock

SUBJECT: Open Burning (per phone conversation 5/23/79)

We want to make a statement in the rule which clearly makes a person conducting open burning responsible for burning in such a manner that he does not become a nuisance to his neighbors. We would propose to follow this up in the domestic open burning context with a "How to" type booklet or brochure and field visits by staff.

My thoughts were to combine paragraphs (5) and (6) of 340-23-040 in the existing rule into a single section (5) and make a new section (6) as follows:

(6) No person shall cause or maintain any open burning allowed by these rules in a manner which causes a nuisance to his neighbor or hazard to public safety in the surrounding area. The person responsible for open burning under these rules shall also be responsible for and take steps to assure that conditions are such that smoke does not become a nuisance to his neighbor or hazard to public safety. If a complaint is registered by a public official or private citizen the person responsible shall take steps to abate the nuisance or hazard. Repeated offenses may be cause for civil penalty action by the ~~Commission~~
Department.

LDB:nlb

Attachment H

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 23

Rules for Open Burning

[ED NOTE: Administrative Order DEQ 37 repealed previous rules 340-23-005 through 340-23-021 (consisting of AP 4, filed 3-12-59; and applicable portions of SA 16, filed 2-13-62).]

340-23-005 [Filed 2-15-72 as DEQ 37, Eff. 3-1-72
Repealed by DEQ 123, Filed and Eff. 10-20-76]

340-23-010 [Filed 2-15-72 as DEQ 37, 3-1-72
Repealed by DEQ 123, Filed and Eff. 10-20-76]

340-23-015 [Filed 2-15-72 as DEQ 37, Eff. 3-1-76
Repealed by DEQ 123, Filed and Eff. 10-21-76]

340-23-020 [Filed 2-15-72 as DEQ 37, Eff. 3-1-72
Repealed by DEQ 123, Filed and Eff. 10-20-76]

Policy

340-23-025 In order to restore and maintain the quality of the air resources of the state in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the state, it is the policy of the Environmental Quality Commission: to eliminate open burning disposal practices where alternative disposal

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methods are feasible and practicable; to encourage the development of alternative disposal methods; to emphasize resource recovery; to regulate specified types of open burning; to encourage utilization of the highest and best practicable burning methods to minimize emissions where other disposal practices are not feasible; and to require specific programs and timetables for compliance with these rules.

Statutory Authority: ORS 468.020, 468.295, and 468.310

Hist: Filed and Eff. 10-20-76 as DEQ 123

Definitions

340-23-030 As used in these rules unless otherwise required by context:

(1) "Agricultural Operation" means an activity on land currently used or intended to be used primarily for the purpose of obtaining a profit in money by raising, harvesting and selling crops or by the raising and sale of, or the produce of, livestock or poultry, which activity is necessary to serve that purpose; it does not include the construction and use of human dwellings customarily provided in conjunction with the agricultural operation."

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~~[(1)]~~ (2) "Commercial Waste" means combustible waste which is generated by any activity of wholesale or retail commercial offices or facilities, or by industrial, governmental, institutional, or charitable organization offices and facilities, or by housing facilities with more than four living units including, but not limited to, apartments, hotels, motels, dormitories, and mobile home parks, but does not include any waste which is defined as industrial waste under subsection (9) of this section or which is prohibited in section 340-23-040(7).

~~[(2)]~~ (3) "Commission" means the Environmental Quality Commission.

~~[(3)]~~ (4) "Construction and Demolition Waste" means combustible waste which is generated by the removal of debris, logs, trees, brush, or demolition material from any site in preparation for land improvement or a construction project; any waste occurring as the result of a construction project; or any waste resulting from the complete or partial destruction of any man-made structures such as houses, apartments, commercial buildings, or industrial buildings.

~~[(4)]~~ (5) "Department" means the Department of Environmental Quality.

~~[(5)]~~ (6) "Director" means the Director of the Department of Environmental Quality or his delegated representative pursuant to ORS 468.045(3).

[~~6~~] (7) "Domestic Waste" means combustible household waste, other than wet garbage, such as paper, cardboard, leaves, yard clippings, wood, or similar materials generated in a dwelling housing four (4) families or less, or on the real property on which the dwelling is situated.

[~~7~~] (8) "Fire Hazard" means the presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare, or to adjacent lands.

[~~8~~] (9) "Forced-air Pit Incineration" means any method or device by which burning of waste is done in a subsurface pit or above ground enclosure with combustion air supplied under positive draft or air curtain, and controlled in such a manner as to optimize combustion efficiency and minimize the emission of air contaminants.

[~~9~~] (10) "Industrial Waste" means combustible waste produced as the direct result of any manufacturing or industrial process.

[~~10~~] (11) "Open Burning" means conducted in such a manner that combustion air and combustion products may not be effectively controlled including, but not limited to, burning conducted in open outdoor fires, burn barrels, and backyard incinerators.

[~~11~~] (12) "Open Burning Control Area" means an area established to control specific open burning practices or to maintain specific open burning standards which may be more stringent than those established for other areas of the state including, but not limited to, the following areas:

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(a) All areas within incorporated cities having a population of four thousand (4,000) or more within three (3) miles of the corporate limits of any such city.

(b) The Coos Bay Open Burning Control Area, as generally depicted on Attachment 1, and as defined as follows: Beginning at a point approximately 4-1/2 miles WNW of the City of North Bend, Coos County, at the intersection of the north boundary of T25S, R13E and the coast line of the Pacific Ocean; Thence east to the NE corner of T26S, R12E; thence south to the SE corner of T26S, R12E; thence west to the intersection of the south boundary of T26S, R14W and the coastline of the Pacific Ocean; thence northerly and easterly along the coastline of the Pacific Ocean to its intersection with the north boundary of T25S, R13E, the point of beginning.

(c) The Rogue Basin Open Burning Control Area, as generally depicted on Attachment 2, and as defined as follows: Beginning at a point approximately 4-1/2 miles NE of the City of Shady Cove, Jackson County at the NE corner of T34S, R1W, Willamette Meridian; thence south along the Willamette Meridian to the SW corner of T37S, R1W; thence East to the NE corner of T38S, R1E; thence South to the SE corner of T38S, R1E; thence East to the NE corner of T39S, R2E thence South to the SE corner of T39S, R2E; thence West to the SW corner of T39S, R1E; thence NW along a line to the NW corner of T39S, R1W; thence West to the SW corner of T38S, R2W; thence North to the

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SW corner of T36S, R2W; thence West to the SW corner of T36S, R4W; thence South to the SE corner of T37S, R5W; thence West to the SW corner of T37S, R6W; thence North to the NW corner of T36S, R6W; thence East to the SW corner of T35S, R1W; thence North to the NW corner of T34S, R1W; thence East to the point of beginning.

(d) The Umpqua Basin Open Burning Control Area, as generally depicted on Attachment 3, and as defined as follows: Beginning at a point approximately 4 miles WNW of the City of Oakland, Douglas County, at the NE corner of T25S, R5W, Willamette Meridian; thence South to the SE corner of T25S, R5W; thence East to the NE corner of T26S, R4W; thence South to the SE corner of T27S, R4W; thence West to the SE corner of T27S, R5W; thence South to the SE corner of T30S, R5W; thence West to the SW corner of T30S, R6W; thence north to the NW corner of T29S, R6W; thence West to the SW corner of T28S, R7W thence North to the NW corner of T27S, R7W; thence East to the NE corner of T27S, R7W; thence North to the NW corner of T26, R6W; thence East to the NE corner of T26, R6W; thence North to the NW corner of T25S, R5W; thence East to the point of beginning.

(e) The Willamette Valley Open Burning Control Area, defined as follows: All of Benton, Clackamas, Columbia, [~~Lane~~7] Linn, Marion, Multnomah, Polk, Washington[7] and Yamhill counties and that portion of Lane County east of Range 7 West.

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~~[(12)]~~ (13) "Person" means any individual, corporation, association, firm, partnership, joint stock company, public or municipal corporation, political subdivision, the state and any agency thereof, and the federal government and any agency thereof.

~~[(13)]~~ (14) "Population" means the annual population estimate of incorporated cities within the State of Oregon issued by the Center for Population Research and Census, Portland State University, Portland, Oregon.

~~[(14)]~~ (15) "Regional Authority" means the Lane Regional Air Pollution Authority.

(16) "Special Control Area" means:

(A) Any area in or within three (3) miles of the boundary of any city of more than 1,000 but less than 45,000 population.

(B) Any area in or within six (6) miles of the boundary of any city of 45,000 or more population.

(C) Any area between areas established by this rule where the boundaries are separated by three (3) miles or less.

(D) Whenever two or more cities have a common boundary, the total population of these cities will determine the control area classification and the municipal boundaries of each of the cities shall be used to determine the limit of the control area.

~~[(15)]~~ (17) "Waste" means any useless or discarded materials.

Statutory Authority: ORS 468.020, 468.295, and 468.310

Hist: Filed and Eff. 10-20-76 as DEQ 123

Exceptions, Statewide

340-23-035 The provisions of these rules shall not apply to:

(1) Fires set for traditional recreational purposes and traditional ceremonial occasions for which a fire is appropriate provided that no waste materials which may emit dense smoke or noxious odors as prohibited in section 340-22-040(7) are included as any part of the fuel used for such fires.

(2) Any barbecue equipment not used for commercial or fund raising purposes, nor to any barbecue equipment used for commercial or fund raising purposes for no more than two periods in any calendar year, each such period not to exceed two consecutive weeks, in any single area.

(3) Fires set or allowed by any public agency when such fire is set or allowed to be set in the performance of its official duty for the purpose of weed abatement, instruction of employes in the methods of fire fighting, or for prevention or elimination of a fire hazard, and which are necessary in the opinion of the public agency responsible for such fires.

(4) Open burning as a part of agricultural operations which is regulated in part by OAR Chapter 340, Division 26, Agricultural Operations.

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(5) Open burning on forest land permitted under the Smoke Management Plan filed pursuant to ORS 477.515.

(6) Fires set pursuant to permit for the purpose of instruction of employees of private industrial concerns in methods of fire fighting, or for civil defense instruction.

Statutory Authority: ORS 468.020, 468.290, 468.295, and 468.310

Hist: Filed and Eff. 10-20-76 and DEQ 123

General Requirements and Prohibitions

340-23-040 (1) No person shall cause or allow to be initiated or maintained any open burning which is prohibited by any rule of the Commission.

(2) Open burning in violation of any rule of the Commission shall be promptly extinguished by the person in attendance or person responsible when notified to extinguish the fire by either the Department, or by any other appropriate public official.

(3) Any person who owns or controls, including the tenant of, property on which open burning occurs or who has caused or allowed such open burning to be initiated or maintained shall be considered the person responsible for the open burning.

(4) Open fires allowed by these rules shall be constantly attended by a responsible person until extinguished.

(5) All combustible material to be open burned shall be dried to the extent practicable to prevent emissions of excessive smoke.

[+6+] All combustibile material to be open burned shall be stacked or windrowed in such a manner as to eliminate dirt, rocks, and other non-combustibile material, to promote efficient burning. Equipment and tools shall be available to periodically re-stack the burning material to insure that combustion is essentially completed and that smoldering fires are prevented.

(6) (a) Open burning which creates any of the following is prohibited:

(i) a private nuisance;

(ii) a public nuisance;

(iii) a hazard to public safety.

(b) If paragraph (a) hereof is violated, the person or persons responsible for the open burning under these rules shall immediately abate the nuisance or hazard.

(c) This subsection applies equally to otherwise authorized and unauthorized open burning.

(7) Open burning of any waste materials which normally emit dense smoke, noxious odors, or which may tend to create a public nuisance such as, but not limited to, household garbage, plastics, wire insulation, auto bodies, asphalt, waste petroleum products, rubber products, animal remains, and animal or vegetable wastes resulting from the handling, preparation, cooking, or service of food is prohibited.

(8) If the Department determines that open burning allowed by these rules may cause or is causing a public nuisance, the Department may require that the burning be terminated or that auxiliary combustion equipment or combustion promoting materials to be used to insure complete combustion and elimination of the nuisance. Auxiliary combustion equipment required under this subsection may include, but is not limited to, fans or air curtain incinerators. Combustion promoting materials may include, but are not limited to, propane, diesel oil, or jellied diesel.

(9) No open burning shall be initiated in any part of the state on any day or at any time when the Department advises fire permit issuing agencies that open burning is not allowed in that part of the state because of adverse meteorological or air quality conditions.

(10) No open burning shall be initiated in any area of the state in which an air pollution alert, warning, or emergency has been declared pursuant to OAR Chapter 340, Sections 340-27-010 and 340-27-025(2), and is then in effect. Any open burning in progress at the time of such declaration shall be promptly extinguished by the person in attendance or person responsible when notified of the declaration by either the Department or any other appropriate public official.

(11) Open burning authorized by these rules does not exempt or excuse any person from liability for, consequences, damages, or injuries resulting from such burning, nor does it exempt any person from complying with applicable laws, ordinances, or regulations of other governmental agencies having jurisdiction.

(12) Forced-air pit incineration may be approved as an alternative to open burning prohibited by these rules, provided that the following conditions shall be met:

(a) The person requesting approval of forced air pit incineration shall demonstrate to the satisfaction of the Department or Regional Authority that no feasible or practicable alternative to forced-air pit incineration exists.

(b) The forced-air pit incineration facility shall be designed, installed, and operated in such a manner that visible emissions do not exceed forty percent (40%) opacity for more than three (3) minutes out of any one (1) hour of operation following the initial thirty (30) minute startup period.

(c) The person requesting approval of a forced-air pit incineration facility shall obtain an Air Contaminant Discharge Permit, if required therefor, and the person shall be granted an approval of the facility only after a Notice of Construction and Application for Approval is submitted pursuant to OAR Chapter 340, Sections 340-20-020 through 340-20-030. Statutory Authority: ORS 468.020, 468.295, and 468.310

Hist: Filed and Eff. 10-20-76 as DEQ 123

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Requirements and Prohibitions by Area

340-23-045 (1) Lane County: The rules and regulations of the Lane Regional Air Pollution Authority shall apply to all open burning conducted in Lane County, provided that the provisions of such rules and regulations shall be no less stringent than the provisions of these rules.

(2) Solid Waste Disposal: Open burning at solid waste disposal sites is prohibited statewide except as authorized by a Solid Waste Permit issued as provided in OAR Chapter 340, Sections 340-61-005 through 340-61-085.

(3) Commercial Waste: Open burning of commercial waste is prohibited within open burning control areas except as may be provided in subsection 7 of this section.

(4) Industrial Waste: Open burning of industrial waste is prohibited statewide except as may be provided in subsection 7 of this section.

(5) Construction and Demolition Waste: Except as may be provided in this subsection and in subsection 7 of this section, open burning of construction and demolition waste, including non-agricultural land clearing debris, is prohibited [~~as follows:~~]

[~~(a)~~] within all open burning control areas [~~in Baker, Benton, Clatsop, Coos, Crook, Deschutes, Douglas, Hood River, Jackson, Josephine, Klamath, Lincoln, Linn, Malheur, Marion, Polk, Tillamook, Umatilla, Union, Wasco, and Yamhill counties.~~] except that such burning is permitted within the Willamette Valley Open Burning Control Area as follows:

[~~(b)~~] (a) In Multnomah County [~~west~~] east of the Sandy River.

[~~(c)~~] (b) In Washington County in all unincorporated areas [~~within~~] outside of rural fire protection districts [~~including~~] and [~~the~~] areas of incorporated cities within or surrounded by said districts.

[~~(d)~~] (c) In [~~Columbia and Clackamas counties within~~] all other areas of the Willamette Valley Open Burning Control Area outside of Special Control areas [established as:]

[~~(A) -- Any area in or within three (3) miles of the boundary of any city of more than 1,000 but less than 45,000 population.~~

[~~(B) -- Any area in or within six (6) miles of the boundary of any city of 45,000 or more population.~~

[~~(C) -- Any area between areas established by this rule where the boundaries are separated by three (3) miles or less.~~

[~~(D) -- Whenever two or more cities have a common boundary, the total population of these cities will determine the control area classification and the municipal boundaries of each of the cities shall be used to determine the limit of the control area.]~~

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(6) Domestic Waste: Open burning of domestic wastes is prohibited in the Willamette Valley Open Burning Control Area, except:

(a) [~~such~~] Such burning is permitted [~~until July 1, 1979~~] until December 31, 1980:

~~[(a)]~~ (A) In Columbia County. [~~excluding the area within the Seappoose Rural Fire Protection District.~~]

~~[(b)]~~ (B) In the Timber and Tri-City Rural Fire Protection District and in all areas, outside of rural fire protection districts in Washington County.

~~[(c)]~~ (C) In the following rural fire protection districts of Clackamas County:

~~[(A)]~~ (i) Clarkes Rural Fire Protection District.

~~[(B)]~~ (ii) Estacada Rural Fire Protection District No. 69.

~~[(C)]~~ (iii) Colton-Springwater Rural Fire Protection District.

~~[(D)]~~ (iv) Molalla Rural Fire Protection District.

~~[(E)]~~ (v) Hoodland Rural Fire Protection District.

~~[(F)]~~ (vi) Monitor Rural Fire Protection District.

~~[(G)]~~ (vii) Scotts Mills Rural Fire Protection District.

~~[(H)]~~ (viii) Aurora Rural Fire Protection District.

~~[(I)]~~ (ix) All portions of the Clackamas-Marion Fire Protection District within Clackamas County.

~~[(d)]~~ (D) In Multnomah County east of the Sandy River.

~~[(e)]~~ (E) In all other parts of Multnomah, Washington~~[7]~~ and Clackamas [and-Columbia] counties, for the burning of wood, needle and leaf materials from trees, shrubs or plants from yard clean-up on the property at which one resides, during the period [commencing-with-the last-Friday-in-October-and-terminating-at-sunset-on-the-third-Sunday in-December,-and-the-period-commencing-the-second-Friday-in-April-and terminating-at-sunset-on-the-third-Sunday-in-May.] commencing on the first day in March and terminating at sunset on the fifteenth of June and commencing on the first day in October and terminating at sunset on the fifteenth of December.

(b) Such burning is permitted until July 1, 1982:

(A) Outside of Special Control areas in the counties of Benton, Lane, Linn, Marion, Polk and Yamhill counties.

(B) Within Special Control Areas of Benton, Lane, Linn, Marion, Polk, and Yamhill counties for wood, needle and leaf materials from trees, shrubs or plants from yard cleanup on the property at which one resides, during the period commencing on the first day in March and terminating at sunset on the fifteenth of June and commencing on the first day in October and terminating at sunset on the fifteenth of December.

~~[(f)]--In-Lane-County,-in-accordance-with-the-Rules-and Regulations-of-the-Lane-Regional-Air-Pollution-Authority.]~~

[g] (c) Domestic open burning is allowed under this section only between 7:30 a.m. and sunset on days when the Department has advised fire permit issuing agencies that open burning is allowed.

(7) Open Burning Allowed by Letter Permit: Burning of commercial, industrial and construction and demolition waste on a singly occurring or infrequent basis may be allowed by a letter permit issued by the Department, provided that the following conditions are met:

(a) No practicable alternative method for disposal of the waste is available.

(b) Application for disposal of the waste by burning is made in writing to the Department, listing the quantity and type of waste to be burned, and all efforts which have been made to dispose of the waste by other means.

(c) The Department shall evaluate all such requests for open burning taking into account reasonable efforts to use alternative means of disposal, the condition of the particular airshed where the burning will occur, other emission sources in the vicinity of the requested open burning, remoteness of the site and methods to be used to insure complete and efficient combustion of the waste material.

(d) If the Department is satisfied that reasonable alternative disposal methods are not available, and that significant degradation of air quality will not occur as the result of allowing the open

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burning to be accomplished, the Department may issue a letter permit to allow the burning to take place. The duration and date of effectiveness of the letter permit shall be specific to the individual request for authorization of open burning, and the letter permit shall contain conditions so as to insure that the burning is accomplished in the most efficient manner and over the shortest time period attainable.

(e) Within the boundaries of Clackamas, Columbia, Multnomah, and Washington counties, such letter permits shall be issued only for the purpose of disposal of waste resulting from emergency occurrences including, but not limited to, floods, windstorms, or oil spills, provided that such waste cannot be disposed of by any other reasonable means.

(f) Failure to conduct open burning according to the conditions of the letter permit, or any open burning in excess of that allowed by the letter permit shall cause the permit to be immediately terminated as provided in OAR 340-14-045(2) and shall be cause for assessment of civil penalties as provided in OAR 340-12-030, 340-12-035, 340-12-040(3)(b), 340-12-045, and 340-12-050(3), or for other enforcement action by the Department.

Statutory Authority: ORS 468.020, 468.295, and 468.310

Hist: Filed and Eff. 10-20-76 as DEQ 123

6/18/79

Records and Reports

340-23-050 As required by ORS 478.960(7), fire permit issuing agencies shall maintain records of open burning permits and the conditions thereof, and shall submit such records or summaries thereof to the Commission as may be required. Forms for any reports required under this section shall be provided by the Department.

Statutory Authority: ORS 468.020, 468.295, and 468.310

Hist: Filed and Eff. 10-20-76 as DEQ 123

Attachment 4

Comment Letters Received
from the Public

Beavercreek Rural Fire Protection District No. 55

Post Office Box 40
Beavercreek, Oregon 97004
Telephone 632-3232

DEPARTMENT OF ENVIRONMENTAL QUALITY
522 SW 5th AV
PORTLAND OREGON 97207

MAY 1, 1979

Dear Mr Brannock:

In answer to your letter of March 28, 1979, requesting comments on proposed changes in the domestic burning regulations, I offer the following comments.

Item 1: "Postponement of dates for prohibiting domestic open burning". Is neither realistic or practical to consider total prohibition of domestic open burning. You do not have the enforcement staff, and we in the Fire Service do not have the personnel or the will to enforce your regulations which have no relation to fire safety. As the D.E.Q. has not furnished funds for regulation or enforcement to the Fire Services, D.E.Q. should expect little effort or cooperation if effecting a total ban on domestic burning from Fire Services. We have our own budget problems and do not need any additional mandated costs from D.E.Q.. From a fire safety point of view, your existing regulations have forced many people to burn their prohibited materials inside the home in burning devices not suited for this use and increased the incidents of fires caused by home heating units. You would be better advised to remove all regulations on the days when domestic open burning would be allowed, except the requirement that it be an allowable burn day due to air quality.

Item 2: "Slightly change burning dates". My comments on item 1 cover this subject as I have already stated. This Department feels that domestic burning should be allowed on any day that air quality would permit.

Item 3: "wet or green vegetation". How ridiculous can we be? With Oregon's weather cycles West of the Cascades, all material is wet if stored outside prior to burning. What is wet or green? Give me a legal definition. Are you going to furnish equipment to check moisture content? Are you going to handle enforcement or are you requesting another "Freebee" from the Fire Services?

I would also like to comment on the input (pressure) from Portland A.Q.M.A. Advisory Committee. I will be the first to admit that I do not know or understand the make up of A.Q.M.A., but it would appear that there is possibly a vested interest involved. What right has this group to make recommendations for rural Clackamas County?

Thank you for allowing my views and comments.

Respectfully,


JACK R CRESCENZI, Fire Chief
Beavercreek RFPD 55



City of Albany

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
MAY 02 1979

May 1, 1979

AIR QUALITY CONTROL

Doug Brannock
Department of Environmental Quality
P.O. Box 1760
Portland, OR 97207

Dear Doug:

I am writing these comments regarding the Department of Environmental Quality rules for open burning. I am concerned about the interpretation of the present rules, and would also like to discuss some changes for next year.

The definition of domestic waste on page two indicates that items other than leaves and trimmings can be burned in the Willamette Valley up until July 1, 1979. I am confused about what will happen after July 1, 1979. What does 6(e) say?

I feel backyard burning should be allowed in residential areas after July 1, 1979. I would also like to see some consideration be given to more flexible dates to allow burning during better weather. It should be ok as long as it is a burning day. If this could be changed somehow, it would eliminate the big rush to the Fire Station, as well as fewer people would be burning all at one time.

I also understand that there is a bill before the legislature eliminating the requirement of a burning permit. I'm not sure where the rules stand under this bill.

Hopefully, you will give this information to the committee. If there are any questions, please contact me.

Sincerely,

Jim Moore
Asst. Chief - Fire Marshal
Albany Fire Department

JM/db

APR 02 1979

March 29, 1979

Dear Recipient,

I would like to register a protest against the proposed elimination of so-called, backyard burning. My wife and I have lived on our 2 acres in Gresham (Oregon) for the past 30 years during which time we have made great landscaping improvements. Now as retirees, to lose our beloved garden, etc., would deprive us of most of our yearly pleasure and daily exercise. We compost every reasonable organic material including kitchen refuse. This year I spread out at least 35 wheelbarrow loads of the last 1-2 years of composting. However, the woody materials from hedges shrubs, trees, and Johnson Creek debris as "hang-up", is carefully collected, stacked, and eventually burned and the ashes spread. This winters icings, wind, and cold have produced over 20-10 yard truckloads of debris which over the past 3 months we have eliminated, and cut up, transported by wheelbarrow and stacked as June readily burnable burn piles. During an "emergency" burn period we attempted to burn one pile, it was far too green and wet and produced a miserable smoke. Your proposed overall ban would indeed force us to cut down or cut out those shrubs, hedges and trees. It is now well known that such vegetation purifies the air of excess CO₂ reduces noise, wind and dust. As part of a proposed Johnson Creek greenway it is most doubtful we could sub-divide and sell out. More likely we would be compelled or condemned to accept a City of Gresham offer for "park expansion". We do not agree on calendric fire-burning periods. They appear to be arbitrary with little, if any, relationship to the average prevailing climate. How rewarding it would have been in 1979 to have been permitted to burn March 23-24 following at least 5 days of low humidity, drying out but this would have been against a variable Christian Lent Season.

Admittedly a few rules are logically necessary, small isolated piles, negligible wind, and hoses connected. It is evident Mayor Goldschmidt and appointee Anderson of the P.of P. wish to deprive us of our centuries old right to burn and would politically and financially introduce new but unwanted polluting industry to utilize reclaimed air-space.

One of several factors overlooked by DEQ, EPA and MSD, is that open bonfires do not produce carbon monoxide CO or the more poisonous oxides of nitrogen as well as hydro-carbon fumes. These are hourly produced by automobiles, diesel burning trucks and tractors. Dry brush on a clear windless day creates a near colorless vertical column of CO₂ saturated hot air.

As a well educated scientist, even in climatology, the writer is convinced that certain changes in fire-seasons would be beneficial to air and water pollution and regrowth of cut-over forest, for instance October-November and May-June. Admittedly there exist several logical objections to Spring slash burning and re-forestation delay. Neither is the writer convinced of the merits of spring replantings versus fall reforestation. Ashes from centuries-old tree debris are rich in K₂O, PO₄ and a host of trace minerals, B, Zn, Cu, Mr, etc. This ash concentrate of perhaps 9000 years of cyclic regrowth and cosmic enrichment, is too easily washed away by winter rains and spring snow melt. A springtime slash burning is more effective in stunting re-growth particularly maple, and the ever-present "bush alder" a much unwanted tree.

Despite a few counter measures as a nation we are becoming resource-wise bankrupt. This letter may freely be reproduced in full or in part by any agency but with acknowledgment of the author.

cc. Department of Environmental Quality
 Air Pollution Control
 Lee Irwin, Gresham Outlook
 Sunday Edition, Journal and Oregonian
 U.S. Forest Service
 Pacific Northwest Forest & Range
 Soil Conservation Service
 Regional Environmental Officer
 Forestry Dept. State of Oregon, Salem
 Forestry Dept. State of Idaho, Boise
 Forestry Dept. State of Montana, Helena
 Forestry Dept. State of Washington, Olympia

Submitted,
Donald C. Birch

Donald C. Birch
 675 SE Park Dr. Gresham, Or. 97030

(a retired government geologist)
 March 29, 1979; Ph. (503) 665-4808

6 April 1979

L. D. Brannock, Meteorologist
Air Quality Division
Department of Environmental Quality
P. O. Box 1760
Portland, Oregon 97207

Dear Mr. Brannock:

Back yard burning should be a educational process in order to maintain a good clean well ventilated burn. The pile should be dry and free from tar paper, rubber products, etc.

The Forest Service people stack neat piles and cover each one to keep it dry; then during the rainy season they fire and burn the piles with very little smoke.

Limb and clippings could be gathered by the utility companies and fed into a furnace. The steam then used to produce electricity to help off-set the power demand when the water is low in the rivers. This, like any wood product, is grown and produced annually and is a renewable source of energy.

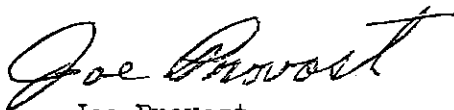
We all know that earth filled dumps are not the answer to the problem of tree and storm fallen debris.

Has the MSD found a new dump site as of this date?

It may never be; so in the interium, are we to pile the brush on the streets? Interesting question.

Better keep back yard burning for sometime to come.

Sincerely,



Joe Provost
8308 SE Murphy Ct.
Clackamas, Oregon 97015

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

R E C E I V E D
APR 9 1979

AIR QUALITY CONTROL

G.R. WATSON
P.O. BOX # 67
WEST LINDY, DE. 19268

ENVIRONMENTAL QUALITY COMMISSION,
TO WHOM IT MAY CONCERN:

THIS LETTER EXPRESSES MY BELIEF THAT
BACK YARD QUEUING OF APPROVED MATERIALS
SHOULD BE ~~CONTINUED~~ CONTINUED ON A TWICE
YEARLY BASIS UNTIL AN ACCEPTABLE
ALTERNATIVE IS DEVELOPED.

I DON'T KNOW IF ANY OF YOU PEOPLE HAVE
HAD TO PAY TO HAVE STUMP, TREE & LOG
CUTTINGS HAULED AWAY.

IF YOU HAVE, YOU WILL KNOW THAT SUCH
A METHOD OF REMOVAL IS FAR ABOVE THE
MONETARY RESOURCES OF THE AVERAGE
RETIRED PERSON. INFLATION CUTS US FROM ALL SIDES

I HAVE IN EXCESS OF 40 TREES & LARGE
STUMPS ON MY TWO LOTS.

I DO NOT KNOW, AND I'M SURE THAT
YOU DON'T KNOW, HOW MUCH CO₂ CAN BE
CONVERTED BACK TO OXYGEN BY SUCH A
GROWTH OF PLANT LIFE, BUT I'LL BET IT
IS A HECK OF A LOT MORE THAN IS
CONSUMED BY 2 BON FIRES A YEAR.

IT WOULD APPEAR THAT A COUNTRY
WITH THE POTENTIAL MATERIALS & THE EFFICIENCY
THAT CAN BE PUT TO ACTION COULD USE THE
VAST AMOUNT OF WASTE TO PRODUCE SUCH
PRODUCTS AS METHANE & METHANOL.

IN THE EVENT THAT A FREE METHOD
OF DISPOSING OF CUTTINGS & WASTES ONLINE
PROVINGS IS NOT FORTHCOMING, I SHALL ALLOW
RESPONSIBLE PARTIES TO ENTER UPON MY
PROPERTY AND REMOVE ALL OF THE BONTRA
IN EXCHANGE FOR THIS SERVICE

4 I SHALL LET THEM HAVE THE 4
LARGE OAK TREES ON MY PROPERTY
IT WILL BE WELL WORTH THEIR
WHILE, & WILL ELIMINATE THE
MAJOR COST OF FUTURE REMOVAL.
THE INFLEXIBILITY OF RETIREMENT
INCOME IS STRESSED TO THE BREAKING
POINT BY THE CONTINUALLY RISING COSTS
OF FOOD, HEAT, ELECTRICITY, GAS, GAS
RENEWAL, TAXES, WATER & SEWER SERVICE,
& MEDICAL COSTS - JUST TO MENTION A FEW
OF THE IMPEDIMENTS THAT BAR ENJOYMENT
OF ONE'S "GOLDEN YEARS" (THAT'S A QUOTE)
WE DON'T NEED ANY MORE IMPOSED
EXPENSES.

Thank You

G. R. Watson

525 N.E. Couch Street
Portland, Oregon 97213

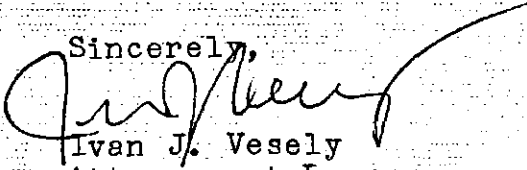
March 27, 1979

Environmental Quality Commission
P.O. Box 1760
Portland, Oregon 97207

Gentlemen:

I am convinced that it is no longer safe to permit backyard burning in metropolitan areas. The atmosphere is already too laden with products of industrial, residential furnace, and automotive combustion. To be sure, in legal theory a property owner is supposed to own all the way to the heavens ("ad coelis"), but such theories, developed in pre-industrial England, must yield to new realities. Modern technology exists which permits rational disposal of wastes, cf. Japan's experience in the manufacture of paving materials and so forth. The time has come to legally restrict backyard fires to innocuous wienie roasts and barbecues. No man has the right to inflict offensive and noxious fumes on his neighbors.

Sincerely,



Ivan J. Vesely
Attorney at Law
and

Clinical Instructor, Dept. of Public Health
University of Oregon Medical School

ECC
Hearing Section

APR 02 1979

APR 02 1979

March 22, 1979

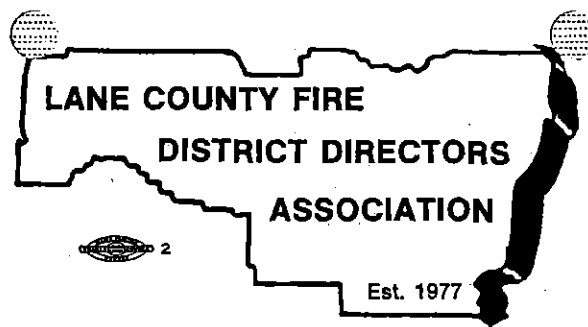
Environmental Quality Commission
P. O. Box 1760
Portland, Oregon 97207

To Whom It May Concern:

I certainly hope you will be able to put an end to the custom of "backyard" burning in this area. I find it not only uncivilized and unhealthy to have the smell of burning garbage wafting in my windows, but it is also a very unsafe pasttime in such a crowded and congested area such as ours. We have a backyard which borders on no less than FIVE other backyards so you can well imagine that when they are all burning we are either forced to close ourselves inside the house or leave. Not all of our neighbors burn garbage, but it is obvious from the odor of the smoke that at least one is doing just that. Please put a complete stop to this primitive custom as soon as possible--you have my total support!

Thank you,

Gloria A. Vesely
Gloria A. Vesely, M.D.
5025 N. E. Couch
Portland, Oregon 97213



191 CHAPEL DRIVE
EUGENE, OREGON 97404

April 13, 1979

E.J. Weathersbee, Administrator
Air Quality Division
Environmental Quality Commission
522 S.W. 5th Avenue
Portland, Or. 97207

Mr. Weathersbee:

I have, within the last 2 days, aquired a copy of the Proposed Amendments to the Rules for Open Burning. I have been in contact with Mr. Vern Adkison of the Lane Regional Air Pollution Authority numerous times over the last 3-4 months attempting to get a copy of these proposed Rules. He has not forwarded a copy of them to me or to our organization. I came upon them quite by accident.

Perhaps Mr Adkison is attempting to keep them from our Organization as he is aware that our organization is in opposition to a complete cut off of domestic burning.

If it is not too late I would appreciate the opportunity to address several items in the proposed Rules.

- Item 1 Page 3, Paragraph 5. Our organization is in opposition to adding the words, "wet or green vegetation" to the rules. To add this terminology to the rules would require that the home owner would be required to store any spring tree trimmings, etc until fall burnig season when they would be dry. Our organization is greatly opposed to any stock piling of this material over the summer months. Our reason for this are the same as for our opposition to a complete termination of back yard burning. If people are not allowed to burn this material they just pile them up and create a fire hazard and a great number of problems for the members of our organization.
- Item 2 Rules for Open Burning. Page 6 Paragraph (e). Our organization would request that all of Lane County be deleted from the Willamette Valley Open Burning Contro; Area.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

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APR 18 1979

AIR QUALITY CONTROL

- Item 3. Page 9. Paragraph (7)
Delete wet or green vegetation for the proposed rules
- Item 4. Page 11. Requirements and Prohibition by Area 340-23-045 (1).
Our organization feels this should read as follows:
Lane County: The rules and regulations of the Lane Regional Air Pollution Authority shall apply to all open burning conducted in Lane County, provided that the provisions of such rules and regulations shall be no less or more stringent than the provisions of these rules.
- Item 5. Page 13. Paragraph (6) Should read:
Open burning of domestic wastes is prohibited in the Willamette Valley Open Burning Control Area, excluding Lane County, except such burning is permitted until there are viable cost effective alternatives available to the general public.
- Item 6. Page 15. Paragraph (7) Should read.
Domestic Wastes: Open burning of domestic wastes is permitted in the Willamette Valley Open Burning Control Area, until viable cost effective alternatives are available.
- Paragraph (b) Should read.
In Lane County, in accordance with the Rules and Regulations of the Lane Regional Air Pollution Authority who's Rules and Regulations shall be no more stringent than the Rules of the Department of Environmental Quality.
- Paragraph (8) Should read.
Open Burning Allowed by Letter Permit: Burning of Commercial, industrial and construction and demolition wastes on a singerly occurring or infrequent basis may be allowed by a signed letter permit issued by the Department to the Fire Permit Issuing Agency having jurisdiction, provided that the following conditions are met:
- Item 7. Page 16. Paragraph (d). Should read.
If the Department is satisfied that reasonable alternative disposal methods are not available, and that significant degradation of air quality will not occur as the result of allowing the open burning to be accomplished, the Department may issue a signed letter permit to the Fire Permit Issuing Agency having jurisdiction. The duration and date of effectiveness of the signed letter permit shall be specific to the issuing agency for authorization of open burning, and the signed letter permit shall contain conditions so as to insure that the burning is accomplished in the most efficient and safe manner and over the shortest time period attainable.

These last two items are designed to correct a problem that has occurred here in Lane County a number of times. Lane Regional Air Pollution Authority issues a permit for burning. The Fire Department having jurisdiction is not notified. Someone calls the fire department to report a fire. The Fire Department responds, upon arriving at the scene the Fire Department finds the person has a permit issued by Lane Regional. This is a waste of the volunteers time and also a waste of the tax payers money, not to mention hard on our equipment.

Additionally, I believe that the State Law currently requires that all permits for burning be issued by the Fire Departments. Our proposed changes to the last to items would conform to State Law.

Our organization would also like to make a couple of overall general comments concerning the proposed rules and regulations for open domestic burning.

1. The dates choosen to allow domestic burning will be very confusing to the general public. If these dates were choosen to confuse the public, I am certain they will get the job done. Our organization would request that you use the first of the month to commence burning and the end of the month to cease burning. This would be a whole lot less confusing and makes a lot more sense.

Handwritten note: } should
insert
2/20

Lastly, our organization feels that the current regulations for domestic burning are more than adequate. We would and have been strongly opposed to any complete termination of domestic burning until cost effective viable alternatives are available to the general public.

We also feel that your organization needs to begin an educational program. Not to tell the public these regulations are coming, but to educate the public in the need for this type of regulation and let the public ask for them, rather than establish regulations no one agrees with and then try to educate the public. Our feeling is that your approach is completely backward.

Handwritten note: Mrs!

If I can be of any further assistance in this matter please do not hesitate to contact me. As I said earlier had Mr. Adkison relayed the proposed rules as he told us he would do, you would have received our comments earlier.

Thank You;

Carl E. Below

Carl E. Below
President

cc. Lane County Commissioners
File



Thurston—Walterville Rural Fire Protection District

38925 McKenzie Hwy. • Springfield, Oregon 97477

Phone 746-6312

April 2, 1979

Department of Environmental Quality
Post Office Box 1760
Portland, Oregon 97207

Gentlemen;

Thurston Walterville Rural Fire Protection District would like to make these comments on the subject of burning ban to be discussed in the April 27 meeting:

1. Allow open burning to continue indefinitely from October 31 thru July 1 for each and every year.
2. Do not change the start and end of the burning periods in any way.
3. Do not include the words "wet and green vegetation". It has been our experience that only 10% of all our permitted burnables contain wet or green material, and that adding these words to the list of materials prohibited would mean nothing to the public.

Our department, located in the McKenzie River Valley area, uses a fire permit system, however we write the permits for a lifetime and require the applicant to come to the station and sign for the permit. The permit is for dry leaves and tree trimmings only. After signing for the permit the owner has only to call and ask if burning is permitted today and if so, give us the permit number. This system has some drawbacks; our department has only one paid person, the rest are volunteers, and the station is not manned on the weekends. However along with our business phone number, we give the pre-recorded burning message number on the permit. We have 1035 permits out now, some of which date back 5 years. We do not enforce the burning regulations, or make inspections. We do, however, investigate complaints of illegal burning, excessive burning or complaints of stockpiled materials that have a potential to endanger life or adjacent property.

Thank you for the opportunity to comment on these rule changes.

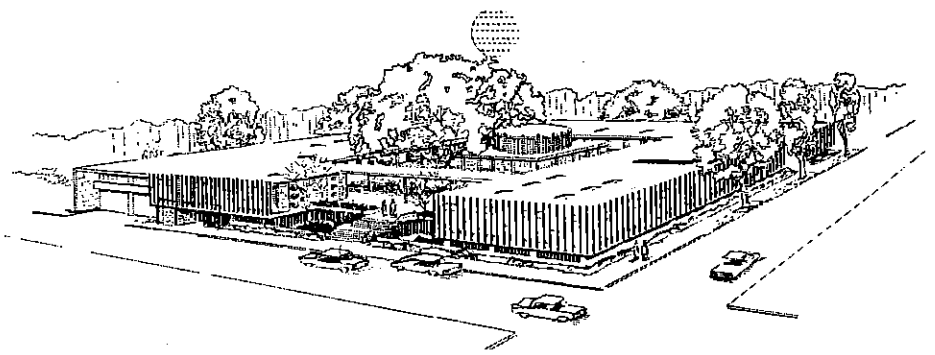
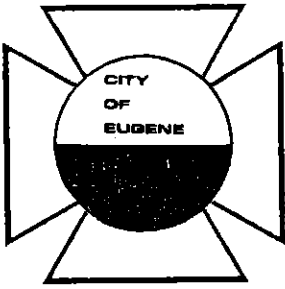
Sincerely,

Jim Nylund, Chief
T. W. R. F. P. D.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
APR 5 1979

AIR QUALITY CONTROL



FIRE DEPARTMENT
503/687-5411

777 PEARL ST.

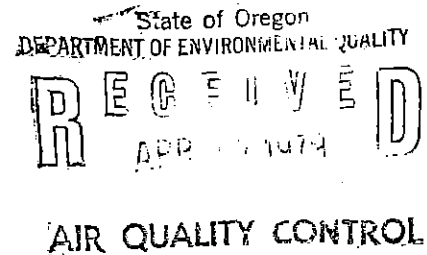
EUGENE, OREGON
97401

April 10, 1979

TO: L. D. Brannock, Meteorologist
Department of Environmental Quality

FROM: Everett G. Hall, Chairman
Lane County Fire Defense Board

SUBJECT: Comments on proposed rules



As you requested in your letter of March 28, 1979, we have reviewed the proposed rules and submit to you the following comments:

1. Item 11, page 6, paragraph E:

If we are to be governed by your rules as proposed, then we assume that we will be under the jurisdiction of the Lane Regional Air Pollution Authority. It is our opinion that all of Lane County should be excluded from the Willamette Valley Open Burning Control Area. The determination of control area and agency should, we feel, be left to the people of our area.

2. Page 9, paragraph 7:

The distinction "wet or green" vegetation should be excluded from the paragraph. Such wording may leave us open for a high fire hazard in the summer time, because people may leave their piles of vegetation through the summer months to dry out, thus causing an increased fire potential for the fire service.

3. Page 11, 340-23-045 (1) Lane County:

Since we will be under the jurisdiction of the rules set forth by the Lane Regional Air Pollution Authority, it is our opinion that their rules be worded no less nor more stringent than your proposed rules are worded.

4. Page 13, paragraph 6, Domestic Waste:

Again, we feel Lane County in its entirety should be excluded from the Willamette Valley Open Burning Control Area, as stated in item 1 above.

5. Page 15, item 7, Domestic Waste:

The rules should be revised to read as follows:

"Open burning of domestic waste is permitted in the Willamette Valley Open Burning Control Areas, until viable alternatives are available to the people of such areas.

(a) Until viable alternatives are reached, the people of such areas may burn domestic waste from November 1 to June 30 of each year.

(b) The rules of the Lane Regional Air Pollution Authority shall not be less nor more stringent than the rules of the Department of Environmental Quality."

In regard to the delegation of domestic waste burning to the period from November 1 to June 30 of each year, it has been our experience in Lane County that this procedure has worked well. The existing rules have, in our opinion, been relatively trouble-free and, therefore, should be retained.

6. Page 15, item 8:

The following phrase at the end of the paragraph should be revised to read: "may be allowed by a signed letter permit issued by the department, to the fire permit-issuing agency having jurisdiction."

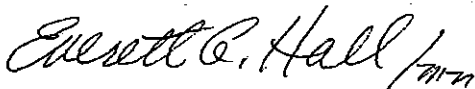
In the past we have had problems with people burning by letter permit without informing the fire service. Oregon State law requires that a person first secure a fire permit from the Fire Chief of the district before burning (ORS: 478-960).

7. Page 16, item 8, paragraph D:

This should be revised to read: "The Department may issue a signed letter permit to the fire permit-issuing agency having jurisdiction. The duration and date of effectiveness of the letter permit shall be specific to the fire permit-issuing agency when requested for authorization of open burning. . . ."

The last part of the paragraph should be revised to read: "efficient and safe manner."

Sincerely,



Everett G. Hall, Chairman
Lane County Fire Defense Board

EGH/mn

EST. 1936

APRIL 10, 1979

TO: L.D. Brannock Meteorologist
Air Quality Division

FROM: Lane County Firefighters Assoc.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
APR 12 1979

AIR QUALITY CONTROL

Dear L.D. Brannock

This letter is in reply to your letter of March 28, 1979 for comments on proposed rules by April 13, 1979.

The fire services of Lane County have these comments in reply to such rules.

1. ITEM 11 PAGE 6 PARAGRAPH E.

We feel that being in your rules we are going to be governed by Lane Regional Air Pollution Authority Rules. All of Lane County should be EXCLUDED from the Willamette Valley Open Burning Control Area and leave it up to the people in our area to determine what rules should apply to them.

2. PAGE 9 PARAGRAPH 7

We feel that the wording of WET OR GREEN VEGETATION should be excluded from the wording of said paragraph. This would we feel leave us with a summer time hazard in high fire season, because the people would leave their piles of vegetation through the summer month's to dry out and cause more fire potential for the fire service.

3. PAGE 11 =340-23-045 (1) LANE COUNTY

We feel that being we are going to have to abide by Lane Regional Air Pollution Authority rules we should have the wording of their rules. SHALL BE NO LESS OR NO MORE STRINGENT THAN THE PROVISIONS OF YOUR RULES.

4. PAGE 13 =PARAGRAPH 6

DOMESTIC WASTE

We feel that the Willamette Valley Open Burning Control Area should EXCLUDE Lane County as stated in item 11 page 6 paragraph E.

5. DOMESTIC WASTE: PAGE 15 ITEM 7.

We feel the rules should read. Open burning of domestic waste is permitted in the Willamette Valley Open Burning Control Area's, until a viable alternative's are available to the people of such area's.

A. That until viable alternative's are reached people should be under the old rules of. Burning is allowed from November 1 to June 30th of each year. This has worked good for Lane County and we haven't had any trouble or problems with old rules.

B. In Lane County this should also read that Lane Regional Air Pollution Authority rule which shall not be more stringent than D.E.Q. rules.

6. PAGE 15 ITEM 8

This paragraph should read at the last.

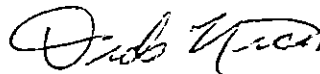
May be allowed by a signed letter permit issued by the department , to the fire permit issuing agency having jurisdiction. We have been having problems of people burning by letter permit and the fire services didn't know anything about the burning. Oregon State Law states that no fires without first securing a permit from the fire chief of the district.

SEE ORS ; 478.960

PAGE 16 ITEM 8 PARAGRAPH D

This also should read . The department may issue a signed letter permit to the fire permit issuing agency having jurisdiction. The duration and date of effectiveness of the letter permit shall be specific to the fire permit issuing agency, requesting for authorization of open burning. And at the last the words AND SAFE put in between the words efficient manner. Should be efficient and safe manner.

SINCERELY

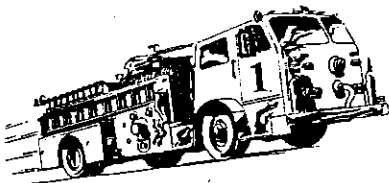


Dick Nice
President
Lane County Firefighters Assoc.

**GOSHEN FIRE DEPARTMENT
P. O. BOX 51
GOSHEN, OREGON 97401**

CLACKAMAS COUNTY
FIRE DISTRICT NO. 1

10639 S. E. FULLER ROAD • MILWAUKIE, OREGON 97222
FIRE ONLY 659-5444 • BUSINESS PHONE 654-7764



HARRY L. CARPENTER
CHIEF

April 5, 1979

Mr. L.D. Brannock, Meteorologist
Department of Environmental Quality
522 S.W. 5th Avenue
Portland, Oregon 97207 c/o P.O. Box 1760

Dear Mr. Brannock:

Received your March 28th request for comments on the proposed rule changes regarding open burning. I have only a few comments for your consideration:

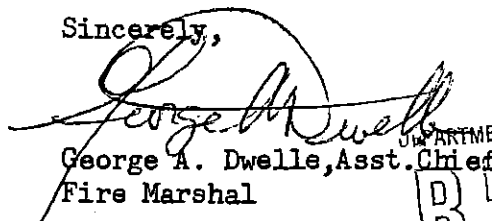
Coming at this late date is it necessary to alter the burning period dates for the 1979 season? Many Districts, this one included, have already gone to the expense of printing up the permits for the season and would be faced with altering this printed date. More of a nuisance than a real problem but is it a necessary one?

The adding of "wet or green vegetation" to the list of prohibited matter for burning will pose an almost impossible policing situation and, again, make a reprinting of already prepared permits a necessity. Most persons kindle their fires and then add matter as they work through their yards. The idea should not be promoted that it is desirable for everyone to make windrows or piles of dry combustible waste awaiting burning seasons. This becomes a violation of state statutes that specify that such accumulations shall not be permitted.

Apparently missing from the proposed rules is the exception generally granted to Fire Departments and Districts to conduct "Burn To Learn" programs. These are programs where condemned structures are burned with the sole purpose of training Firefighters and testing of newly acquired or developed apparatus and/or equipment. Will this be continued on into 1980? Will it be permitted after 1980? It is a program that is vital to the Fire Service and cannot be replaced with any other alternative.

I hope that these comments will receive your consideration in making the decisions that are necessary.

Sincerely,


George A. Dwelle, Asst. Chief
Fire Marshal

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
APR 9 1979

cc: Chief H.L. Carpenter
Clackamas County Fire Dist. 1

AIR QUALITY CONTROL



FORESTRY DEPARTMENT

WEST OREGON DISTRICT

303 RIVER DRIVE • DALLAS, OREGON • 97338 • Phone 623-8146

April 6, 1979

Doug Brannock
PO Box 1760
Portland, OR 97207

Dear Mr. Brannock,

I am opposed to extending the domestic open burning season to June 15 within Polk County. The potential for an escaped domestic fire will be much greater if the burning season is extended beyond the normal May cut off. If your agency feels it necessary to have a longer burning season, I suggest you consider allowing domestic burning to begin earlier in the year - say April 1 rather than extending the season into June.

Sincerely,

Jerry Piering
Dallas Protection Unit Forester

JP:mo

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
APR 9 1979
AIR QUALITY CONTROL

Tangent Rural Volunteer Fire Department

P.O. Box 242

Phone 928-8722

TANGENT, OREGON 97389

APRIL 5-1979

DOUG BRANNOCK

THE TANGENT RURAL FIRE DEPT. WOULD LIKE TO HAVE
BACKYARD BURNING FROM SEPTEMBER-15- TO JUNE 15
EACH YEAR. THIS TIME OF YEAR THERE IS NOT MUCH
FIRE DANGER. AND WE NEED MORE TIME FOR BURNING
THE TIME WE HAVE HAD IN THE PAST IS NOT LONG
ENOUGH.

ALSO HAVE THE D.E.Q. PUT THE REPORT ON RADIO
STATIONS. EACH MORNING AND REPORT THE
CONDITIONS THAT DAY.

THANK YOU
TANGENT FIRE DEPT.
Chief Dale McDowell

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
APR 9 1979

AIR QUALITY CONTROL



City of Albany

April 6, 1979

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
APR 9 1979

AIR QUALITY CONTROL

Mr. L. D. Brannock
Meteorologist
Air Quality Division, D.E.Q.
522 SW 5th Ave.
Portland, OR 97207

Dear Mr. Brannock:

In regard to your communication of March 28, 1979, as to the rule changes for open burning. We have many people that seem obsessed with the philosophy that some material must be burned. Even as long as these rules have been in effect, it seems almost impossible to convince some of these people that the requirements do exist. We have found great difficulty in enforcement of these regulations; and without enforcement, the effort to prohibit open burning is futile.

It seems to me that control of burning is the only way to go for long periods of time.

We also have a different problem when we move across the City limit lines into the Rural Fire Districts:

1. In the Rural Fire Districts, in many cases the problem grows larger because of the larger tracts of land under ownership.
2. City disposal service is simply not available to everyone.
3. There are projects which class as land clearing, but the occupant does not qualify under agricultural. Thus, to permit burning under the agricultural land clearing rules is incorrect. Yet these requests come from people who own and live on the property and the cleanup is for nothing more than that they do not wish to live in a jungle.

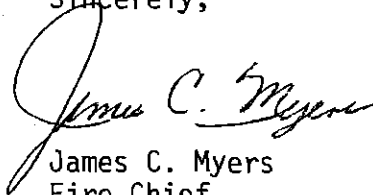
In reality, I feel we have reached an ultimate level of burning and ultimate disposal at this time. I feel this should continue until such time that this source of contamination would be a major portion of the air contamination. To my knowledge, it has rarely, if ever, been that high and is certainly much less than major under the control program.

Mr. L. D. Brannock
Page -2-
April 6, 1979

The only other suggestion I would have to offer is that through the news media, a possible solution to the twice a year rush would be to permit burning on days throughout the year when weather conditions could permit some open burning. Also, possibly eliminate the requirement for burning permits in rural areas over a period from October 1 through May 30.

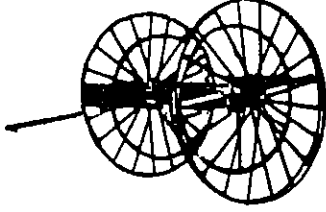
I hope these suggestions will be of value to you. I would be happy to answer any questions you may have.

Sincerely,



James C. Myers
Fire Chief,
Albany Fire Department

JCM/db



ADAIR RURAL FIRE DEPARTMENT

9200 Tampico Road
Corvallis, Oregon 97330

April 10, 1979

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
APR 15 1979

Mr. William H. Young, Director
Oregon Department of Environmental Quality
P. O. Box 1760
Portland, Oregon 97207

AIR QUALITY CONTROL

Attention: L. D. Brannock, Meteorologist

Dear Mr. Young:

Thank you for the opportunity to comment on the proposed rule changes.

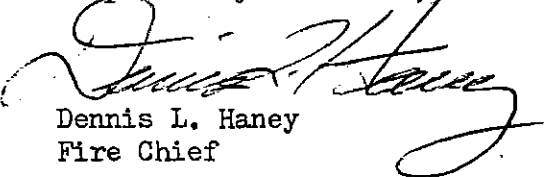
Adair Rural Fire Protection District is a rural residential area in north Benton County. We are located in the coastal foothills of the Coast Range where acreages run from one to 20 acres of logged off, brush over-grown land.

The amount of brush that can accumulate on two or three acres in six months is considerable. In fact, these stacks of brush are often large enough that a fire truck is sent to the burn scene just to be ready in case the fire gets out of control.

If the residents had no way to dispose of this brush, the stacks would get larger and larger and would be in themselves a terrific fire hazard ready to go off at the touch of a match.

We, therefore, strongly support the modification of the existing rules on burning by extending the burning dates at least till 1982. We also would support further extension until a satisfactory alternative to burning has been developed.

Respectfully submitted,


Dennis L. Haney
Fire Chief

DLH:eh



LEBANON FIRE DEPARTMENT—CITY-RURAL

1050 WEST OAK STREET
LEBANON, OREGON 97355

(503) 258-6712

April 11, 1979

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
APR 13 1979

AIR QUALITY CONTROL

Department of Environment Quality
Mr. L.D. Brammoch
Meteorologist
P.O. Box 1760
Portland, OR 97207

Dear Doug:

I have received a letter from you concerning backyard burning and have read the information attached with it and feel that there are changes needed in the residential open burning regulations. For clarification, I will plainly itemize my concerns below:

1. Generally, the dates set up for burning do not coincide with good air quality management. In the fall of the year, in the fall burning season, the leaves are almost always wet and numerous days are foggy. In the spring, we limit the people to designated days and they feel panicked into getting the burning done, which many times contributes to a smokey condition.
2. The valley, and our district is no exception, is full of violating people burning year round anyway. We generally do not police this action but do respond to all complaints of burning.
3. I feel that burning should be opened up the entire year except for the summer months; more closely educate the people into what should and should not be burned, and allow the burning to be conducted on days when drying conditions will sufficiently dry the material to create a minimum amount of smoke.

Mr. L.D. Brannock
Page 2

4. I feel that the difference between agricultural and backyard burning concerning removal of old buildings should not exist. It is just as difficult for the private homeowner to haul a building away as is for a person with a firm. I realize there is a distinctive difference as far as agricultural burning is concerned but the amount of smoke would be the same in either instance.

Sincerely,



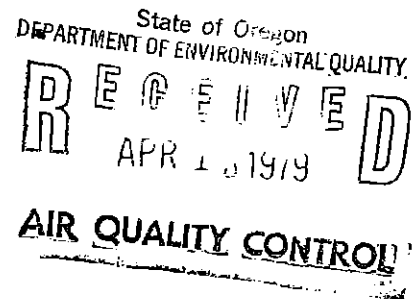
Arthur Fuller, Chief
Lebanon Fire Department

AF:sh



CITY OF STAYTON

362 N. THIRD AVE. • STAYTON, OREGON 97383



MAYOR

Wayne Lierman

CITY COUNCIL

H. Porter, Pres.
L. Sanders
R. Kingsley
K. Hazelwood
J. Fields

ADMINISTRATIVE
769-3425

Ellis Vandehey

POLICE
769-3421

A. A. Allen
Police Chief

FIRE
769-2601 (bus.)
769-2211 (emer)

Ron Tegen
Fire Chief

PUBLIC WORKS
769-3425

H. V. Whitaker
Superintendent
of Public Works

April 12, 1979

L. D. Bramnock
Air Quality Division
Department of Environmental Quality
P. O. Box 1760
Portland, Oregon 97207

Dear Mr. Bramnock:

In response to your letter concerning proposed rule changes of the Commission in dealing with domestic open burning in the Willamette Valley.

After reviewing the proposed changes I offer the following comments:

- A. Agree with continuation of domestic open burning in the Willamette Valley.
- B. Agree with inclusion of "wet or green vegetation" in the wording of prohibited activities.
- C. Request that Fire Departments be allowed to issue burning permits on burn days anytime during the winter when regulations are effective.

Statement of need for Item C:

More burning time would allow greater dispersement of smoke by spreading out the amount burned over a greater number of days.

The public in our area burn in dis-regard to the present rules anyway, why make them all violations.

Alternatives are not working because there is no enforcement and besides it is part of nature to burn this type of debris and remember- it is not nice to foul Mother Nature.

Recommendation: That domestic open burning be allowed to continue with less controls.

Respectfully submitted,


Ron Tegen
Fire Chief



TUALATIN RURAL FIRE PROTECTION DISTRICT

P.O. BOX 127 • TUALATIN, OREGON 97062 • PHONE 682-2601 • RUSSELL WASHBURN, CHIEF

April 3, 1979

Department of Environmental Quality
522 S.W. 5th - P.O. Box 1760
Portland, Oregon 97207

Attn: L. D. Brannock, Meteorologist, Air Quality Division

Re: Backyard Burning

Dear Mr. Brannock:

I read your letter and thank you for allowing us to have input, even though the public hearings are already over with. As you are well aware of the fact, the local fire department is a very important part of air pollution. Although you have a Department of Environmental Quality and AQMA Advisory Committee, and the EQC, and assorted other parties, the person out doing backyard burning doesn't know about any of those people. All they know about is the local fire department, who in reality is the one who carries out the regulations. It is important that these regulations be realistic so that the regulations can be enforced without unnecessary hardship on any party.

Based on the fact there is little available open waste disposal sites, or programs to receive and dispose of garden and other materials on a local basis, your proposal to allow open burning for two more years is an absolute necessity. Taking open burning away without providing some other reasonable alternative to dispose of the material, is only to create a lot of illegal burning and a lot of problems for the local fire department to try to police the matter.

You additionally need to consider the fact, especially true in a mixed fire district such as Tualatin Fire District, that there is partial built-up residential and also some agricultural areas. These areas are not clearly separated and in many instances, very closely mixed. When you have two sets of burning rules, one applying to some parties and immediately in the adjacent area, another set of rules applying to somebody else, you also create other problems. It is unfair to tell somebody in a small single-family dwelling that they can only burn at certain times, only burn certain materials, and after 1982 won't be able to burn at all, but yet, a small farmer can burn any materials at almost any time of the year, as long as it's in conjunction with a crop.

I would also agree that preparations should be made now to inform the public that alternative measures are going to be provided to dispose of the materials and open burning will be discontinued and the reasons why open burning will be discontinued.

If you would also like this testimony to be presented in person, if you would notify me in advance of the hearings, the Tualatin Fire District would be glad to have somebody in attendance.

If you have any further questions, feel free to call me.

Yours truly,


Joseph A. Greulich
Fire Marshal

JAG:dm

Halsey-Shedd R.F.P.D.
Larry Parker, Chief
P.O. Box 42
Halsey, Ore. 97348

April 18, 1979

Doug Brannock
Dept. of Environmental Quality
Post Office Box 1760
Portland , Ore. 97207

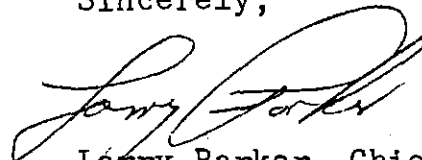
Dear Mr. Brannock;

The present regulations concerning backyard burning for the Willamette Valley are unworkable as stated in their purpose to alleviate pollution problems.

The rules defeat the purpose for which they are intended in the following areas; 1. During designated time periods in the Fall and Spring, foggy days, damp debris or rainy weather combine to create inadequate burning of backyard materials. 2. Often damp tree trimmings, leaves and grass clippings are burned hurriedly to coincide with specified dates for backyard burning.

Under these conditions, more smoke inundates local communities and the regulatory agency is the culprit. I recommend that backyard burning should be permitted from Sept. 15 through June 15 on days when weather conditions are favorable. This gives the regulatory agencies more time to find good burning conditions.

Sincerely,



Larry Parker, Chief
Halsey-Shedd R.F.P.D.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
APR 23 1979

AIR QUALITY CONTROL

4/9/79

L. D. Brannock
Meteorologist
Air Quality Division

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
APR 10 1979

AIR QUALITY CONTROL

Do not postpone the dates for permanently prohibiting domestic burning. We all have twigs & branches of some description that has fallen during the winter months. We accumulate these for spring burning and then burn all our other small incidentals. And if they are left too long this will cause soggy burning & smoke unnecessarily. And most of these are too large to dispose in garbage disposals.

And why should fields have preference over domestic home owners burning. At least, we keep ours in a small burning area in designated places, not near a highway that will

obstruct traffic for miles. We
are also tax payers and should
have some recognition.

Thank you kindly,

a very much concerned Taxpayer
of Clackamas County.

VAGT, OLSEN & COON

ATTORNEYS AT LAW
BENNETT BUILDING
P. O. BOX 973
275 STRAND ST.
ST. HELENS, OREGON 97051

grew
Reg
TRB
SCC

April 12, 1979

Dept. of Environmental Quality

RECEIVED

APR 17 1979

NORTHWEST REGION

Mr. Wm. H. Young, Director
Department of Environmental Quality
522 S. W. 5th
Portland, Oregon 97207

Re: Scappoose Rural Fire Protection District

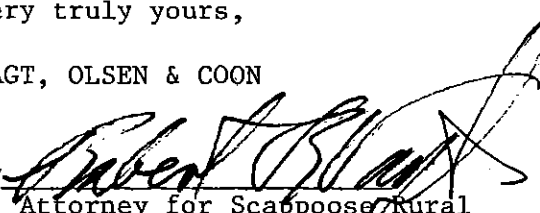
Dear Sir:

The Scappoose Rural Fire Protection District at their regular meeting on April 9, 1979 at the Scappoose Fire Hall, where all directors were present, voted unanimously to request that Scappoose Rural Fire Protection District be withdrawn from the Willamette Valley Air Control District with all related regulations thereto. The fire district wishes to be included into the same district as the balance of Columbia County and governed by their regulations.

I write this letter at the request of the Board of Directors.

Very truly yours,

VAGT, OLSEN & COON

By 
Attorney for Scappoose Rural
Fire Protection District

RRV/mb

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED

APR 16 1979

OFFICE OF THE DIRECTOR

Wesley Wolf
431 N.E. Knott St.
Portland, Oregon 97212
March 28, 1979

DEQ Headquarters
State Capitol
Salem, Oregon 97310

Dear Sirs:

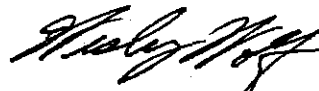
I recently heard a news item that sounded like DEQ was considering banning both backyard burning and fireplace wood-burning. Although backyard burning should be permitted only during proper atmospheric conditions, to pretend that "good" burning days do not exist is to be blatantly unrealistic. However, that is not the subject of this letter.

We installed an efficient Franklin stove in order to conserve oil. At over \$300 per tankful, we and tens of thousands of other Oregonians find it very difficult to heat a large home without supplemental wood heat. Our Franklin will prevent the oil burner from cutting in on all but the coldest nights. It has saved hundreds of dollars over the last four years. Although the wood produces smoke, it prevents an approximately equal amount of smoke from the oil that would have been burned instead. Cheap smoke from a renewable resource? Or expensive smoke from a non-renewable resource. It is not so simple as to just take away people's choices. Some people out there don't have a choice. When they run out of oil and can't afford more during a cold winter, they are not allowed to survive on that half-cord of mill scraps in the basement, right?

To force people to burn oil instead of wood not only doesn't logically cut it, but it smacks of high-level influence from the oil companies.

If DEQ is truly and sincerely interested in cutting down on pollution, working in the public interest, and being free from oil industry influence, it should not engage in such ineffective and outrageous stupidity as trading wood smoke for oil smoke. Instead, put pressure on Tri-Met to string up the trolley wires and replace their diesel motors with electric ones.

Yours truly,


Wesley Wolf

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
APR 3 1979

AIR QUALITY CONTROL

April 10, 1979

Environmental Quality Commission
522 Southwest 5th Avenue
P. O. Box 1760
Portland, Oregon 97207

Dear Sir:

In anticipation of purchasing a piece of land in the Fall Creek area of Lane County (east of Eugene-Springfield) I am writing to request information concerning the proposed ban on open burning. I have been informed that OAR 340-23-045 authorizes the expiration of the open burning program as of July 1, 1979. I would appreciate receiving a copy of that Oregon Administrative Rule and any information concerning it and proposals (if any) directed towards the extension of open burning or elimination of the rule.

I am presently affiliated with a piece of land in Coos County (located near Remote, Oregon) and would appreciate information as to whether that county intends to introduce the same type of action towards landowners burning.

I'll appreciate your response concerning these matters.

Thank you,

Lisa J. King

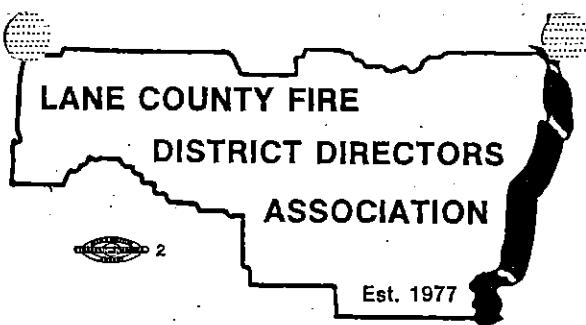
Lisa J. King
P. O. Box 335
Springfield, Oregon 97477

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
APR 13 1979

OFFICE OF THE DIRECTOR

Please prepare draft reply
for Governor's signature
by 4/13
Thank you.

152E



191 CHAPEL DRIVE
EUGENE, OR. 97404

PLEASE RETURN
ORIGINAL LETTER

Governor Victor Atiyeh
Oregon State Capital
Salem, OR. 97310

*Answer via Hor
4/11/79*

Dear Governor Atiyeh:

Our Organizatin would like to appraise you of a very dangerous situation that appears to be very close to happening.

The Environmental Quality Commission appears to be ready to approve regulations concernig open burning of domestic waste in the major portion of Lane County through OAR 340-23-025 through 23-050. Our Organization is opposed to the proposed regulations. We have addressed our concerns to the Environmental Quality Commission and the Lane Regional Air Pollution Authority. We would greatly appreciate your assistance in this matter.

There are two area's in the proposed regulation that we feel need to be changed. These area's are the July 1, 1982 cut off date and the dates chosen to allow burning until 1982.

The dates given in the proposed burning rules would be very confusing to the general public. Using the 1st of the month and the last of the month would cause less confusion. The proposed regulations call for burning to be allowed commencing on the third Tuesday in April through the fifteenth of June and the fourth Tuesday in October through the fifteenth of December until July 1, 1982.

As to the July 1, 1982 date for complete phase out of open domestic burning, our organization feels that this date should not be set until such time as there are other cost effective alternatives available.

Other reasons for our opposition to a complete ban on open burning are:

- a. The vast majority of the fire fighters in Lane County are volunteers who donate their time and efforts to help their neighbors in time of need. We do not beleive the State should be in the position of taking these people away from their employment or families just to put out a fire when someone is burning leaves.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
APR 6 1979

AIR QUALITY CONTROL

DEJ
RECEIVED
APR 5 1979
Governor's Office

- b. A great number of volunteer fire departments are extremely short handed during the daytime and the districts are usually quite large. The Fire Departments do not want to be put into a position of being out on a trash fire call and then have a house or other building catch fire in another portion of the district. Or worse yet, have someone have a heart attack and need emergency medical assistance, and have the fire department unable to respond or have a delayed response because they are putting out someones pile of burning leaves.

People will not haul their leaves and yard trimmings many miles to a collection point or land fill. Not with the cost of gasoline going to \$1.00 a gallon. They will just pile this material up somewhere out of sight. This practice causes several problems.

- a. These piles of leaves and yard trimmings become extremely favorable habitate for rats and mice. This in turn attracts snakes. In some portions of Lane County and even within the Eugene city limits there are still dens of Rattlesnakes. I do not feel it would be very nice to have a small child around one of these piles of brush, on a nice warm spring day, and be bitten by a Rattlesnake.

The State does not want people to use many chemicals on their plants, burning is the only means available to rid the small home orchard of diseased trimmings.

Last but certainly not least, the Fire Districts have enough trouble getting our budgets passed. We do not want to be placed in a position of having to enforce an extremely unpopular regulation and then have to ask these same people to approve our budgets.

These are but a few of the reasons for our opposition to the proposed regulations. I will not take your valuable time to expand on them all.

You are reported to have made a statement that more people should volunteer their time to make government work. The vast majority of fire fighters in Lane County are volunteers, and we would ask your assistance in making our job a little more meaningful.

I have enclosed a copy of the Environmental Quality Commission's Proposed Amendments to Rules for Open Burning.

Sincerely;

Carl E. Below

Carl E. Below
President

Mrs. Howard G. Stephenson
3155 N. E. 84th Avenue
Portland, Oregon 97220

RECEIVED

MAR 22 1979

Governor's Office

March 20, 1979

Heads of the D.E.Q.

Dear Sirs: —

You make the ordinances
for the D.E.Q. committee and,
hence, are the ones to whom the
discontented citizens who are
arbitrarily prohibited from burning
anything ^{out of doors} ~~outside~~ except during
decreed "burning season" must
go with their complaints
if they can spare any time
in which to do this.

I have large trees, both
deciduous & evergreen, on
my city lot, more than ample
oxygen release sources to dissipate
any smog caused by a little bonfire
smoke. I had a hollow stone-
"brick" fireplace built in my back

(2) yard at a safe distance
from any structure or tree
a number of years ago, topping
the 3 walls of this ^{structurized} fireplace
with a fine meshed heavy
metal screen & a few days
after this was ready for
use, the burning restrictions
were issued. I have always
seen to it that the materials
to be burned are as dry
as possible in order to facilitate
burning and to cut down on
smoke, and when necessary
use a poker to keep it well
ventilated. Since it has been
found that, except for field-
burning, auto combustion and
industries are the greatest by
far! — Causes of smog,
combined with ^{occasional} stagnation of
air, why is it that you
continue to ~~use~~ ^{use} ~~those~~ ^{those} ~~old~~ ^{old} ~~wood~~ ^{wood} ~~burn~~ ^{burn} ~~an~~ ^{an}
indoor fireplace The right
(See back of page 1)

Page 3

to burn paper and
twigs and saved off limbs
& packings accumulating
on one's property?

I used to converse with
the firemen at our nearby
fire station, when I drove
down there (1 block away)
to get my burning permit
for the days burning on a
day on which it was permitted,
and I have not yet found
a fireman who condones
your arbitrary rules. They
~~can~~ do no less than
enforce them even when, in
individual cases and instances
such as mine, they seem
to be entirely unfair and
inappropriate. Can't you
add some qualifying clauses
whereby people who have
trees & well-built incinerators can
burn on good days, such as wet shaving
(See back of Pg 2)

now, and on through (Page 4)
the dry season? Why not?

I am practically
convinced that the
~~the~~ cause behind your
arbitrariness and needless
restrictions is nothing
other than the ego-
trips that your committee
enjoys embarking upon.
I am either that, the desire to
control other people for your
own self gratification, ^{or}
or, that you do not have
the high mentality of the
early days' statesmen of the U.S.A.
which was a necessary
ingredient for, or in the
writing of the United States
Constitution. These ^{new} annoying
burning problems of the little home
owners could be swiftly and
thoroughly solved, if you would
only honor your commitments!
Please, do.

Sincerely,
Ruth Griffin Stephenson

WALTER F. BROWN
CLACKAMAS COUNTY
DISTRICT 13



COMMITTEES
VICE CHAIRMAN:
JUDICIARY
MEMBER:
AGRICULTURE AND NATURAL RESOURCES
EDUCATION

REPLY TO ADDRESS INDICATED:

- SENATE CHAMBER
SALEM, OREGON 97310
- 16 SW MONTICELLO DRIVE
LAKE OSWEGO, OREGON 97034

OREGON STATE SENATE
SALEM, OREGON
97310

March 6, 1979

E. Jack Weathersbee, Administrator
Air Quality Control Division
Oregon Department of Environmental Quality
522 S.W. 5th Avenue
Portland, OR 97204

Dear Mr. Weathersbee:

Enclosed is a copy of a letter I received last Friday from a Lake Oswego resident who, I'm certain, expresses the concern of many people who live in Senate District 13.

It would be appreciated if you might write me briefly as to the rationale which went into formulating the schedule for this spring's "backyard" burning schedule.

The thrust of Mrs. Ryan's letter, of course, is that the burning season comes too late in the spring and is too short. It would be appreciated if you might also comment on the validity of her proposal for an earlier and longer burning period.

Sincerely,

Walter F. Brown
State Senator, District 13

WFB/jb

Copy to: Mrs. Elizabeth S. Ryan
16906 S.W. Cherry Crest Drive
Lake Oswego, OR 97034
H: 636-2191

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
MAR 28 1979

AIR QUALITY CONTROL

16906 Cherry Crest Drive
Lake Oswego, Oregon 97034
March 22, 1979

Senator Walter F. Brown
The Capitol
Salem, Oregon 97308

Department of Environmental Quality
522 S.W. Fifth
Portland, Oregon 97204

The Oregonian
1320 SW Broadway
Portland, Oregon 97201

Dear People:

In looking over the backyard burning seasons and whether or not to extend them, how about looking at the over-all picture? Going, going, gone--the Portland metropolitan area is rapidly running out of landfill. If that garbage was sorted, and whatever is burnable could be burned to provide needed energy, that might solve three problems. Many of us already take our glass and metals to recycling centers, and even bury garbage in the garden.

While it would be nice to have someone drive around every once in awhile to grind up the brush and return it to the soil--but can either cities/counties provide such service without raising taxes? While such service is available commercially, and some gardeners have purchased their own grinders, most of us consider that too expensive.

So, what does the householder do? The most efficient way is to burn what will burn. However, based on my observations, the burning seasons are both ill-timed and too short. This spring it is from April 13 to mid-May. Isn't May likely to be too dangerous--depending, of course, on the weather. In the fall it's been mostly November--usually when it is so wet nothing will burn.

The recent extra burning season was an excellent idea--but not long enough. It rained too much, or my stuff was too green--it wouldn't burn, so there's a pile awaiting that April 13 season.

Having piles of brush lying around yards soon become both an eyesore and a fire hazard.

With a longer, more reasonable burning season--subject to daily cancellation of course, there should be less air contamination than all of us burning at one short time. We'd have better looking yards, and save money.

Sincerely

Elizabeth Ryan
Elizabeth Ryan

3/22/79

Department of Environmental Quality
Air Standards Division
Portland, Ore.

Sirs:

I was unable to attend last evening's public hearing on extension or cancellation of backyard burning, but would like to enter the record with the following in the usual public hearing procedure:

The present fall and spring burning periods are insufficient to solve the solid waste problem, much of this because of adverse weather with dampness either precluding burning or allowing only smouldering with poor combustion and high particulate emissions and excessive smoke.


As a Portland resident with grass, bush prunings, leaves and fallen limbs to dispose of, I urgently request that the backyard burning program not only be continued permanently but that the periods be extended to include a substantial time later in the spring and earlier in the fall to allow burning when the material is dry enough for combustion.

This will increase the volume of burned material little if any, but certainly will lessen the total air pollution by allowing better combustion. I believe the burning bans during bad air pollution days should continue as in the past.

My neighbors agree.

Although I am a member of the Corbett-Terwilliger-Lair Hill Planning Committee and the Terwilliger Community League, there have been no meetings since the hearing was announced and I have not discussed this with those groups. Hence, I am writing this as an individual, mindful of the acute solid waste disposal problem in the entire state as well as the Metro area, plus the air pollution control problems since part of my profession involves those areas, their technical problems and solutions.

Your recognition of the above request as part of the public input toward continuing and extending the "backyard burning" program is very much appreciated.


Lamar Newkirk
5023 SW View Pt. Terr.
Portland, Or. 97201
Office phone 248-7025

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
MAR 29 1979

AIR QUALITY CONTROL

March 27, 1979

Department of Environmental Quality
Air Quality Division
P. O. Box 1760
Portland, Oregon 97207

Gentlemen:

Please count this as another message in favor of
continuing backyard burning permits.

We compost all possible leaves, grass, soft material,
and of course newspapers are recycled. Twigs, and limbs
that will take a long time to decay can scarcely be piled
on the average city lot. Certain material (iris and peony
stalks for instance) should be burned to destroy diseases.

Adding bulk to the already mountainous garbage dumps
seems foolish when a clean fire will dispose of it. Worse,
if we must drive 30 miles, round trip, to dump it because
our garbage collector won't take it willingly, we're using gas.

Few of us can afford or handle the shredder machines,
and I find the noise pollution very objectionable.

I was interested in the newspaper item indicating that
you had not figure on the portion of "pollution" that can
be attributed to backyard fires. I have a hunch it is minor.

A suggestion: those with burning permits might well be
allowed to burn, on approved days, throughout the fall-to-
spring months when most material accumulates, such as from
February pruning and mid-winter storm damage. This would
spread the already minor amount of smoke over a longer time.

And doesn't anyone else want to roast a hotdog or bake
a potato in the coals of the fire?

Sincerely yours,

Louise R. Godfrey
Mrs. R. L. Godfrey
2775 S. W. Montgomery Drive
Portland, Oregon 97201

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
MAR 29 1979

AIR QUALITY CONTROL

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
1979

AIR QUALITY CONTROL

EQC
Hearing Section

MAR 27 1979

3-25-79

Environmental Quality Comm.

Dear Sirs:

I see where you had a hearing March 22, 79 I would of liked to of attended but being at such a time and place was unable.

I live in east Salem and take pride in my gardens, yard, fruit trees etc.

As I'm sure you realize we get a bit of grass clippings tree prunings and other debris.

I really feel it stupid this restriction on back yard burning on only certain times of the year, I feel it better to burn all year long when the air is right then have it come all at once.

Gentlemen please don't miss understand I'm not advocating letting people burn garbage old tires etc. just clean leaves grass etc I myself have never felt sick

from inhaling this smoke and don't really feel the gases given off from such fires are of that serious nature.

Realistic rules would allow back yard burning all year long. D.C.C. could and should prohibit burning on those days when the air is not suitable.

Yours Truly
Bob Thorn
4155 Hudson Ave N.E.
Salem, Ore. 97301
Ph 364-4837



CITY OF
**COTTAGE
GROVE**

400 E. Main Street, Cottage Grove, Oregon 97424

EQC
Hearing Section

MAR 27 1979

March 20, 1979

OFFICE OF THE MAYOR:

Environmental Quality Commission
P.O. Box 1760
Portland, OR 97207

RE: TESTIMONY FOR PUBLIC HEARING FOR PROPOSED AMENDMENTS TO
RULES FOR OPEN BURNING

Dear Sirs:

Cottage Grove is in favor of extending the back yard burning provision beyond 1979.

To this rural community it also seems unrealistic to put a date of 1982 on this extension. ✓

It is my firm belief that our atmosphere is designed in such a way to handle the material created by the burning of natural combustibles. I am in favor of cities, not agencies, legislating strict ordinances against the burning of other types of materials. ✓

The proposed rule change concerning wet materials will be hard for this community to contend with because of our extreme southerly valley location and because the agency determining "burn days" does so generally with a southerly wind factor. Southerly winds are primarily wet weather winds. This means the majority of our "burn days" are wet days. This does not allow the complete combustion of trimmings, clippings and leaves. ✓

I believe it would be in the best interest of the valley and its residences to allow local government to have some leeway in deciding "burn days" since it is their responsibility to enforce the regulations. ✓

Sincerely,

William A. Whiteman
Mayor

WAW:gm

3815-SW Hamilton
Portland Ore 97221

D. E. Q

Dear Sirs -

I think a wise decision
Re Burning would be to allow
it all year except at times
when ^{air} condition would be too bad
to allow. It seems so silly to
fill our dumps with wood
etc that can be disposed by
burning. Good wood smoke never
hurts anybody.

H. B. Jacobson

March 23, 1979

Environmental Quality Commission
522 S.W. 5th Avenue
P.O. Box 1760
Portland, Oregon 97207

EGC
Hearing Section

MAR 23 1979

Dear Sirs:

I became aware of the hearing concerning the extension of the constraints on open burning held by your agency by reading an account of the hearing in the March 22, 1979 Oregon Journal. I would have liked to attend the hearing to give testimony against the extension, however, I had no opportunity as I was unaware of the hearing.

I live at 4970 State Street in Salem, Oregon. I am a dedicated gardener and on my property I have a variety of ornamental trees and shrubs as well as various fruit trees and grapes. Because of the normal care of these plants there is a quantity of cuttings and clippings produced annually which requires disposition. Occasionally some of the fruit trees get infected which requires removal of infected parts. Because of DEQ's constraints on open burning, I have been forced to hire the removal of the cuttings. The cuttings cannot be allowed to remain as there is the potential of healthy trees becoming affected by the diseased cuttings. The removal of this material, prior to DEQ's prohibition, has been by open burning. Last year I received a bid of \$125-150 to remove the cuttings. Hopefully, this discourse will establish my credentials for providing testimony on the proposed continuation of open burning.

I would like to commence on a positive note. I am not opposed to realistic controls on open burning. If such burning poses a clear and imminent danger to my neighbors or the community health, then it should not be allowed. Also, open burning of such substances causing unpleasant odors or which could cause damage to property or cause neighbors to be uncomfortable should be controlled.

I do vigorously object to the continuation of the restriction of open burning regulations concerning back yard burning. I have read no research studies which clearly prove that burning of natural vegetation, such as tree prunings in small quantities, is a clear danger to health through the pollution of air.

The DEQ regulations which have been in effect seem to be arbitrary. Why is it not harmful to burn after the middle of April and harmful before? This arbitrary restriction does not coincide with the periods of tree pruning. This forces me to pay for the removal of the cuttings or leave the cuttings lie until mid-April. This makes no sense to me.

I would like to make a comparison of two issues concerning air quality. I live across the street from the Salem Mushroom Plant. This facility continuously produces gases which are quite reminiscent of horse shit. DEQ does nothing about this problem. On the other hand, I am restricted from burning, usually a 45 minute burning period, the annual cuttings from my trees. By the way, the gases from burning my cuttings considerably improves the air quality as it dampens the odors from the Mushroom Plant.

I believe that the current and proposed rules controlling backyard burning should be eliminated. In their place rules should be developed which are

Environmental Quality Commission
March 23, 1979

Page 2

✓ reasonable and supportable by the people. I have no objection to a restriction on burning if, because of environmental conditions, the air in the Valley is over loaded with harmful gases. I have no objection to prohibiting the burning of old tires, etc. However, I believe the proposal to not allow the burning of green cuttings is assinine. How do you propose to police this?

Realistic rules would allow backyard burning all year long. DEQ could prohibit burning on those days when it is clearly determined that the Valley air is stagnant and overloaded with dangerous gases and particles.

For the record, I totally oppose the continuation of the current rules controlling backyard burning and equally oppose the new rules as proposed.

Yours,

Bert H. Worley

Mr. Bert H. Worley
4970 State Street
Salem, Oregon

3-24-79

To Whom it may Concern:

Re: Backyard Burning.

I appreciate the need for burning of yard debris; however, I would like to suggest that permits be given on only odd or only even days. My reasoning is as follows:

Because of the raise in power costs (P&E is again asking for one) myself and many of my neighbors (5 I can name) have been using

clothes lines to dry our wash in nice weather. Last "summer" during burning season - (April-May) we would have clothes drying only to have to race out and take them down because someone had begun burning. While there is no nicer smell than outdoor dried clothes and nothing worse than "smoke-smell" clothes and sheets. With all of the "push" for conservation of energy, you force us to dry our 4-5 loads a piece (every 2-3 days) in a dryer

when the sun could do it without using any measured energy. Not to mention the money I have to pay to dry them in a dryer that you force me to use. Perhaps I have the right to ask for compensation for the money expended for electricity due to DEQ = violating my right to clean air to dry my clothes. If you state that only even days are burning days, then I can wash on odd ones. I have called about this 2 years in a row.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
MAR 27 1979
AIR QUALITY COMPENSATION

COZY 'N' CAREFREE
Donna Nesbitt
8900 SW Birch
Portland 97223
© Current, Inc.
COLORADO SPRINGS, COLORADO 80941





OREGON ENVIRONMENTAL COUNCIL

2637 S.W. WATER AVENUE, PORTLAND, OREGON 97201 / PHONE: 503/222-1963

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
MAR 25 1979

AIR QUALITY CONTROL

The Environmental Quality Commission
DEQ
P.O. Box 1760
Portland, Oregon 97207

March 22, 1979

To the Commission:

The Oregon Environmental Council opposes the practice of backyard burning in urban, polluted areas. We support an extension to the burning ban but only until December, 1980 and only for the purpose of developing alternatives to disposal by burning.

Backyard burning is inappropriate to urban areas. O.E.C. has attempted to compile an inventory of cities that have already banned burning. Such a list is forthcoming. Meanwhile E.P.A. indicates that backyard burning is an unusual practice in non-attainment areas. The Oregon Environmental Council certainly feels that it is a practice that must be stopped.

The Portland Aerosol Characterization Study is nearly completed. It indicates that backyard burning may have a very significant impact on the degradation of air quality in the Portland AQMA. As you know, the Advisory Committee for the AQMA has advocated a ban on burning by December, 1980 because the practice contributes to air pollution in the form of fine particulates. There are a lot of misconceptions surrounding backyard burning. The fact remains that we cannot afford to dispose of garden wastes by creating smoke any longer.

The Oregon Environmental Council recognizes that individuals burn now because there are few disposal options. We urge that alternative disposal methods be developed. We will not be able to support another extension.

ALTERNATIVE FUTURES, Tigard
AMERICAN INSTITUTE OF ARCHITECTS
Portland Chapter
AMERICAN SOCIETY OF LANDSCAPE
ARCHITECTS
Oregon Chapter
ASSOCIATION OF NORTHWEST STEELHEADERS
ASSOCIATION OF OREGON RECYCLERS
AUDUBON SOCIETY
Central Oregon, Corvallis, Portland, Salem
BAY AREA ENVIRONMENTAL COUNCIL
Coos Bay
B.R.I.N.G.
CENTRAL CASCADES CONSERVATION COUNCIL
CHEMEKETANS, Salem
CITIZENS FOR A BETTER GOVERNMENT
CITIZENS FOR A CLEAN ENVIRONMENT
CLATSOP ENVIRONMENTAL COUNCIL
CONCERNED CITIZENS FOR AIR PURITY
Eugene
DEFENDERS OF WILDLIFE
ECO-ALLIANCE, Corvallis
ENVIRONMENTAL ACTION CLUB
Parkrose High School
EUGENE FUTURE POWER COMMITTEE
EUGENE NATURAL HISTORY SOCIETY
GARDEN CLUBS of Cedar Mill, Corvallis,
McMinnville, Nehalem Bay, Scappoose
GRANT COUNTY CONSERVATIONISTS
H.E.A.L., Azalea
LAND, AIR, WATER, Eugene
LEAGUE OF WOMEN VOTERS
Central Lane, Coos County
MCKENZIE GUARDIANS, Blue River
NORTHWEST ENVIRONMENTAL DEFENSE
CENTER
OBSIDIANS, Eugene
1,000 FRIENDS OF OREGON
OREGON ASSOCIATION OF RAILWAY
PASSENGERS
OREGON BASS AND PANFISH CLUB
OREGONIANS COOPERATING TO PROTECT
WHALES
OREGON FEDERATION OF GARDEN CLUBS
OREGON GUIDES AND PACKERS
OREGON HIGH DESERT STUDY GROUP
OREGON LUNG ASSOCIATION
Portland, Salem
OREGON NORDIC CLUB
OREGON NURSES ASSOCIATION
OREGON PARK & RECREATION SOCIETY
Eugene
OREGON ROADSIDE COUNCIL
OREGON SHORES CONSERVATION COALITION
O.S.P.I.R.G.
PLANNED PARENTHOOD ASSOCIATION INC
Portland
PORTLAND ADVOCATES OF WILDERNESS
PORTLAND RECYCLING TEAM, INC.
RECREATIONAL EQUIPMENT, INC.
SANTIAM ALPINE CLUB
Salem
SIERRA CLUB
Oregon Chapter
Columbia Group, Portland
Klamath Group, Klamath Falls
Many Rivers Group, Eugene
Mary's Peak Group, Corvallis
Mt. Jefferson Group, Salem
Rogue Valley Group, Ashland
SOLV
SPENCER BUTTE IMPROVEMENT ASSOCIATION
STEAMBOATERS
SURVIVAL CENTER
University of Oregon
THE TOWN FORUM, INC.
Cottage Grove
TRAILS CLUB OF OREGON
UMPOUA WILDERNESS DEFENDERS
WESTERN RIVER GUIDES ASSOCIATION, INC.
WILLAMETTE RIVER GREENWAY ASSOCIATION

16906 Cherry Crest Drive
Lake Oswego, Oregon 97034
March 22, 1979

Senator Walter F. Brown
The Capitol
Salem, Oregon 97308

Department of Environmental Quality
522 S.W. Fifth
Portland, Oregon 97204

The Oregonian
1320 SW Broadway
Portland, Oregon 97201

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
MAR 29 1979

AIR QUALITY CONTROL

Dear People:

In looking over the backyard burning seasons and whether or not to extend them, how about looking at the over-all picture? Going, going, gone--the Portland metropolitan area is rapidly running out of landfill. If that garbage was sorted, and whatever is burnable could be burned to provide needed energy, that might solve three problems. Many of us already take our glass and metals to recycling centers, and even bury garbage in the garden.

While it would be nice to have someone drive around every once in awhile to grind up the brush and return it to the soil--but can either cities/counties provide such service without raising taxes? While such service is available commercially, and some gardeners have purchased their own grinders, most of us consider that too expensive.

So, what does the householder do? The most efficient way is to burn what will burn. However, based on my observations, the burning seasons are both ill-timed and too short. This spring it is from April 13 to mid-May. Isn't May likely to be too dangerous--depending, of course, on the weather. In the fall it's been mostly November--usually when it is so wet nothing will burn.

The recent extra burning season was an excellent idea--but not long enough. It rained too much, or my stuff was too green--it wouldn't burn, so there's a pile awaiting that April 13 season.

Having piles of brush lying around yards soon become both an eyesore and a fire hazard.

With a longer, more reasonable burning season--subject to daily cancellation of course, there should be less air contamination than all of us burning at one short time. We'd have better looking yards, and save money.

Sincerely,

Elizabeth Ryan
Elizabeth Ryan

4937 Dumore Drive S. E.
Aumsville, OR 97325
March 20, 1979

Mr. Bob Harris
DEQ Air Quality Division
P. O. Box 1760
Portland, OR 97207

Re: Domestic Open Burning

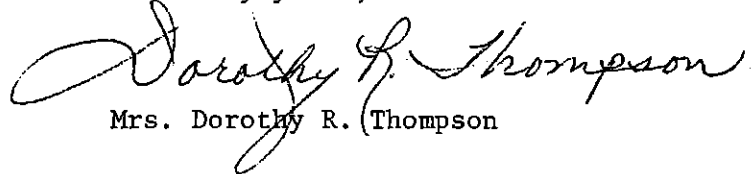
Dear Mr. Harris:

In response to the public hearing set for March 21, 1979, on regulation of open burning, I am strongly in favor of modifying the current rule as follows:

"Allow the continuation of spring and fall domestic open burning of Benton, Linn, Marion, Polk, and Yamhill counties until July 1, 1982."

"Allow domestic open burning, commencing on the third Tuesday in April through the fifteenth of June and the fourth Tuesday in October through the fifteenth of December."

Sincerely yours,


Mrs. Dorothy R. Thompson

drt

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
MAY 21 1979
AIR QUALITY CONTROL

March 19, 1979
5055 Center Way
Eugene, Oregon 97405

Dear Mr. Harris,

Please add my voice to those supporting back-yard open burning. I don't know if this regulation includes Eugene or not .. however I have felt very strongly that it is terribly unfair for those of us here not to have an opportunity to burn our brush etc. without breaking the law. Every day of the year the industries around here are given special privileges in this regard, yet we as individuals are unable to receive a permit even one day a year.

I have piles of brush that have accumulated through the years in areas that are not easily accessible by truck (I live on 3 acres within the city limits). One time I was refused a permit, so I burned some of it anyway, and felt so angry the whole time to think I was being forced to break the law (the fireman suggested to me that maybe it was worth risking a \$15 fine to get rid of the brush .. I agreed) .. I still feel upset about this situation, but have not tried burning again as I don't like to feellike a criminal.

I hope that the rule will be changed in this regard .. I am sure it will mean a cleaner enviroment and an incentive to remove much that is now unsightly in our landscape.

Sincerely,

Jean Patterson
Joan Patterson

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
MAR 20 1979

AIR QUALITY CONTROL

Sent LRADA
3/27/79

3-8-79

Dear Sirs,

I am writing in regard to the date set for spring "back yard" burning. Living out of town, I am planning a large garden. In many cases our garden spots are the only safe areas to burn tree prunings and other trimmings. The April 13 date set for beginning burning is most inconvenient for me, as well I'm sure, as for many other central valley gardeners. Our gardens should be worked up and some things planted by that time.

I for one, would like to see a much earlier date set, say around March 15th. It would seem this date would allow people to have their clean-up out of the way before time to plant.

My address:

John Cunningham
4620 S.W. Riverside Dr.
Albany, Or. 97321

Sincerely,

John Cunningham

Received
3/15/79
Sincerely
& prepared Ash.

Mar 14-1979 ^{LDB}

Ms. Viola Anderson
4783 Hayesville Dr. N.E.
Salem Ore 97303

Dear Sir:

We heard there is some talk of stopping back yard burning of leaves & brush.

We have a problem of receiving many leaves from a oak grove across the street from our home. We have a truck load of leaves every fall besides our own trimmings. Which has to be disposed of one way or another. So we appreciate being able to burn them. Sincerely
Mrs. Cliff Anderson

2-20-79

Dear Sir

Would like a copy of
the new rule on Open
Burning.

We who have a small
orchard and woodlot need
more days in winter to
get our work done
especially people in their
seventies

Thank You
Robert Rose
6603 NE 192 AVE
VANCOUVER, WASH.
98662

sent 2/21/79
KF

1360 Apple Way
Ashland, Oregon 97520

February 27, 1979

Mr. Bob Harris
DEQ Air Quality Division
P O Box 1760
Portland, Oregon 97207

Dear Mr. Harris:

In response to your recent announcement in the Medford Mail Tribune ("your opportunity to comment on proposed DEQ air pollution emission regulation for OPEN BURNING"), I would like to do just that. I am opposed to open burning of any kind. In the Ashland area we have a landfill dump for public use, and I can see no reason for backyard burning. Many beautiful days last year were ruined by our neighbors, who chose to burn piles of debris. It has been years since Californians have been allowed to burn anything -- why should Oregon be any different?

Thank you for giving the public an opportunity to share their viewpoints.

Sincerely,

Mrs. Robert Spalding
Mrs. Robert Spalding

cc: Medford DEQ Office

BY DEPT. OF ENVIRONMENT

1979

RECEIVED
FEB 28 1979
DEPT. OF ENVIRONMENT



LINN COUNTY
BOARD OF COMMISSIONERS

P.O. Box 100, Albany, Oregon 97321
Telephone 967-3825

COMMISSIONERS

VERNON SCHROCK
MARY KEENAN
JOEL D. FOSDICK, JR.

ADMINISTRATIVE
OFFICER

WILLIAM L. OFFUTT

February 28, 1979

Department of Environmental Quality
Air Quality Division
PO Box 1760
Portland, OR 97207

Gentlemen:

In response to your proposed rule change as follows:

The proposed rule permits open burning
of yard clean-up materials from the 3rd
Tuesday in April through June 15 and the
4th Tuesday in October through December 15
in Willamette Valley counties.

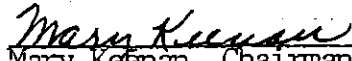
The Linn County Board of Commissioners at its regular meeting
on February 28, 1979, voted unanimously to support the proposed
change.


Please enter these written comments in the record of the public
hearing scheduled on March 21, 1979, at the Multnomah County
Courthouse in Portland, Oregon.

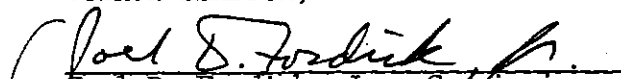
Should you have any questions, please contact us.

Sincerely,

LINN COUNTY BOARD OF COMMISSIONERS


Mary Keenan, Chairman


Vernon Schrock, Commissioner


Joel D. Fosdick, Jr., Commissioner

brm

Feb. 23, 1979

Mr. Bob Harris
O&Q Air Quality Division
P. O. Box 1760
Portland, OR 97207

Dear Mr. Harris:

I would like to register my support for continuing of permitted backyard open burning during specified weeks in early spring and again in the fall from 1979 through 1982 in the Willamette Valley.

I do feel that it should be permitted subject to weather conditions on a daily basis. I am well aware that some days it

could cause serious smoke problems. Each season, though, there are always a number of days that it does disperse readily.

This permits easy disposal of what would otherwise cause an added burden to landfills.

The addition of wood ashes from tree prunings is beneficial when added to flower or vegetable growing areas.

Yours truly,

(Mrs) Anna M. Clark
3082 Hammond St. NE
Salem, OR 97303


3072 Hammel Street, N.E.
Salem, Oregon 97303
March 3, 1979

Mr. Bob Harris
DEQ Air Quality Div.
P. O. Box 1760
Portland, Oregon 97207

Dear Mr. Harris:

I am writing this letter to express my desire that seasonal backyard burning be allowed to continue. I feel that this method of disposing of clippings is very practical, convenient, and creates a minimum amount of pollution. To discontinue this practice would work a real hardship on suburban home dwellers, and would discourage them from doing a thorough job of maintaining their property.

Sincerely,



Daniel M. Page

JOHN A. CARSON

~~XXXXXXXXXXXXXXXXXXXX~~ 2191 N.W. Savier
PORTLAND, OREGON ~~XXXXXX~~ 97210

February 28, 1979

Mr. Bob Harris
DEQ Air Quality Division
P.O. Box 1760
Portland, OR 97207

Dear Mr. Harris:

In that I will not be able to attend your hearing on March 21, 1979, I am sending these comments which I would like made a matter of record.

Our family is strongly opposed to any relaxation in open burning regulations and would rather see further curtailment. During the fall of the year when the burning season starts, the air sometimes is so fouled by home owners smoldering piles of wood, wet leaves and debris, that it actually causes throat irritation. We live in a low area and so we are perhaps more bothered than others, but I am not over emphasizing the severity of the problem.

My observations suggest most back yard burners do not get any appreciable flame out of their fires, thereby causing this smoke problem.

Please support the many who are victims of careless burning practices.

Sincerely,


John A. Carson

THE LEAGUE OF WOMEN VOTERS OF OREGON

494 STATE STREET - SUITE 216

SALEM, OREGON 97301

581-5722

February 15, 1979

Mr. William Young, Director
Oregon Department of Environmental Quality
522 S.W. Fifth Avenue
Portland, Oregon 97204

Dear Mr. Young,

The Oregon League of Women Voters adopted a position on air pollution in 1968. At that time, we agreed that all segments of society must share responsibility for improved air pollution abatement practices. We agreed that one of the areas for which individuals need to accept responsibility is backyard burning. The Oregon League of Women Voters stands by this position today.

We are very disappointed by the lack of progress toward an end to backyard burning in the Portland area. The Oregon League of Women Voters supported the original Columbia Willamette Air Pollution Authority (CWAPA) proposal in 1970 to eliminate backyard burning in urban areas. Because of a lack of alternatives, however, we accepted as reasonable the CWAPA revision to allow twice-a-year burning until 1972.

We expected that during the two-year interim CWAPA would have made arrangements with public solid waste agencies for improved methods of handling domestic trimmings. However, when the 1972 deadline approached, CWAPA felt compelled to request an extension to 1976 because no alternatives had been made available. When the 1976 deadline approached, and the Department of Environmental Quality (DEQ) had assumed CWAPA's responsibilities, the DEQ requested another two-year extension. Now the 1979 deadline is approaching and we understand that DEQ will request another extension.

Enough is enough!

It appears that no one is taking on the task of developing alternatives to open burning. The DEQ has consistently refused to face the issue head on. Apparent lack of new landfill sites and expectations of Metropolitan Service District proposals have been given as excuses for this delay.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

R E C E I V E D

FEB 21 1979

OFFICE OF THE DIRECTOR

Letter to Mr. William Young, Director
Oregon Department of Environmental Quality
February 15, 1979

Page Two

Why are we waiting for landfill or burning options? Why aren't the cities picking up the yard trimmings and selling them for mulch or developing a composting system? Why has there been no education of the public on how to handle their yard trimmings without burning them?

The Portland Air Quality Maintenance Area (AQMA) still needs to reduce particulates. We expect that controls on industry are about as tight as they are going to get. On behalf of the League of Women Voters of Oregon, we are asking now for some action to prohibit backyard burning in the Portland AQMA.

Sincerely,

Annabel Kitzhaber

Annabel Kitzhaber
President
League of Women Voters of Oregon

Judy Keltner

Judy Keltner
President
League of Women Voters of Portland

cc: Mayor Neil Goldschmidt, City of Portland
Rick Gustafson, Executive Director, Metropolitan Service District

6217 Southeast 40th Avenue
Portland, Oregon, 97202
February 19, 1979

D E Q Quality Air Division
P. O. Box 1760
Portland, Oregon, 97207

Gentlemen:

It is rather ridiculous to allow the quality of the air to become polluted by extending permission for backyard burning or allowing any burning at all, for that matter, when we have strict regulations for regular automobile emission checks. When citizens have to go through the inconvenience of having their cars checked periodically, why should backyard burning be allowed?

On many a beautiful day we have gone outside to work only to see the air become filled with pollution and to see the weather change and become absolutely smoky because of neighborhood burning.

We have lived in our present home for thirty years and have never found the need for burning, having disposed of the refuse by other means.

If Oregon is going to have regulations for pure air, let's have them and forget about being permissive. We would like to see the absolute banning of air-pollution burning.

Sincerely,



A.R. Robnett and family

February 28, 1979

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
MAR 9 1979

AIR QUALITY CONTROL

DEQ Air Quality Division
P.O. Box 1760
Portland, Oregon 97207

Attention: Mr. Bob Harris

Re: Open Burning

Gentlemen:

I have been a resident of Parkrose for 27 years. During the past few years I have been under doctors care for allergy. Air pollution is the thing that bothers me the most.

Until recently it did not bother me in the house. When I go out to do yard work during burning season, I wear a mask to protect myself from breathing the smoke. During the last 2 months I can smell the smoke in the house. The air out here has been blue with smoke. Because of the rainy weather old motor oil has been used to keep fires burning and that creates a lot of smoke.

I do not know why some areas could be set up where trimmings could be hauled to and burned without overburdening our already endangered clean air supply.

Yours truly,

Mrs. Emil Bruseth

Mrs. Emil Bruseth
11265 N.E. Prescott
Portland, Oregon 97220

VICTOR ATIYEH

GOVERNOR



OFFICE OF THE GOVERNOR
STATE CAPITOL
SALEM, OREGON 97310

March 6, 1979

Robert Harris
Department of Environmental Quality
P.O. Box 1760
522 S.W. Fifty
Portland, OR. 97207

Dear Mr. Harris:

RE: Domestic Open
Burning Dates
PNRS 7902 6 610

Thank you for the opportunity to review your state plan amendment.

The amendment was circulated for review among appropriate state agencies. No significant conflicts with state plans or programs were identified.

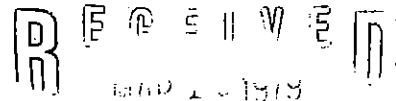
I am pleased to add my approval as required by OMB A-95, Part III.

Sincerely,

Victor Atiyeh
Governor,

VA:wb

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY



AIR QUALITY CONTROL

STATE CLEARINGHOUSE

Intergovernmental Relations Division
306 State Library Building, Salem, Oregon 97310
Phone: 378-3732

STATE A-95 REVIEW ADDENDUM

APPLICANT: DEQ

PROJECT TITLE: Domestic Open Burning Dates

PNRS #: 7902 6 610

DATE: March 7, 1979

The State Clearinghouse has received additional comments

from Fire Marshal

subsequent to our conclusion letter of March 6, 1979,

please see copy(ies) attached for your attention.

Additional Clearinghouse comments:

Please consider this letter and enclosure(s) an addendum to our previous letter.

A copy of this letter and enclosure(s) should be forwarded to the federal funding agency as required by OMB A-95.

If you have questions please contact the State Clearinghouse at the above address and telephone number.



OREGON PROJECT NOTIFICATION AND REVIEW SYSTEM

STATE CLEARINGHOUSE

Intergovernmental Relations Division
Room 306, State Library Building
Salem, Oregon 97310, Phone: 378-3732

RECEIVED
MAY 11 1978
STATE DIVISION

Allen

PNRS STATE REVIEW

Project #: 7902 6 610 Due Date: MAR 2 1978

To Agency Addressed: If you intend to comment but cannot respond by the return date, please notify us immediately. If no response is received by the due date, it will be assumed that you have no comment and the file will be closed.

PROGRAM REVIEW AND COMMENT

To State Clearinghouse: We have reviewed the subject Notice and have reached the following conclusions on its relationship to our plans and programs:

- () It has no adverse effect.
- () We have no comment.
- () Effects, although measurable, would be acceptable.
- () It has adverse effects. (Explain in Remarks Section)
- () We are interested but require more information to evaluate the proposal.
- () Please coordinate the implementation of the proposal with us.
- () Additional comments for project improvement. (Attach if necessary)

REMARKS (Please type or print legibly)

The Oregon Fire Service has expressed concern, due to the short time frame that is allowed each year for the burning of domestic waste. Due to the limited time in which burning is permitted, fire inspectors have noticed that large quantities of combustible material is allowed to accumulate, thus creating serious fire hazards. Also past experience has indicated that the fall burning time frame is so late in the season that the waste material becomes saturated with water making it difficult to burn and actually creates more smoke and carbon particulates to escape into the atmosphere than if the debris could be burned during a time frame prior to the rainy season.

Agency Fire Marshal By Elyse M. Centers

Mar. 14, 1979

To the Department of Environmental Quality;

I want to express our opposition to the open burning ban which will become effective this summer.

First - I would like to state that we are conservationists and are extremely aware of environmental pollution.

As I have been using burning permits for the past several years, I realize that there are some problems with the process, but for those of us who are concerned about the level of air pollution, I feel this has been an effective way to keep informed of appropriate burning days. One solution for the problems would be to do away with the permits, paperwork and enforcement but continue to provide information re: burning conditions and spend more money on public education.

We have 23 acres, just outside of Eugene, in hay land, pasture and timber. We are constantly at war with the blackberries and brush as we don't believe in spraying as it kills our honey bees, the wild birds and contaminates the ground. It would be extremely difficult to cut up and haul this brush all the way to the dump.

We produce 38 tons of tansy free hay each year and
this feeds a number of beef cattle in this area.

We want to be able to continue keeping our fields
clear without spraying.

Thank you for your attention,

Mrs. John S. Alwood

6937 S. Th. 31st Ave.
Portland, Ore 97219
March 16, 1979

Mr. Bob Harris
DE & L Quality Division
P.O. Box 1760
Portland, Ore. 97207

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
MAR 20 1979

AIR QUALITY CONTROL

Dear Sir:

Mr. Krieg and I wish to go on record favoring Open Burning for homeowners. We feel pollution from burning yard prunings is minimal. We feel, also, that Open Burning should be on a year-around basis determined daily by prevailing air quality.

This year's additional January-February burning certainly caused no additional pollution problems. And if year-around burning were permitted, there would not be the plethora of fires at the same time when burning season finally opens. Gardeners could keep on top of their pruning!

So let it be a precedent on

the one hand to discourage
or stop completely the outside
burning of wood products
while, on the other hand,
promote the burning of wood
products inside the home -
e.g. - the Wood Heat Show -
March 24th at the Calisium -

Honesty and consistency
will permit the burning of
wood products inside or
outside - whenever the air
quality is proper for burning -

Sincerely,

Barbara Krieg
(Mrs. Wm. E.)

William E. Krieg

March 14, 1979

William Young, Director
Oregon Department of Environmental Quality
P.O. Box 1760
Portland, Oregon 97207

Dept. of Environmental Quality

RECEIVED
MAR 20 1979

Dear Mr. Young:

NORTHWEST REGION

The Portland AQMA Committee feels that through planning and cooperation with local jurisdictions the need to continually extend the open burning ban will no longer exist. Your letter of March 5, 1979 indicates that you are willing to commit the Department's resources to the development of alternative disposal methods. The Committee supports the proposed extension under the condition that the DEQ will implement the following schedule, leading to a ban on backyard burning by December 31, 1980.

- (1) DEQ will request a firm commitment from MSD for manpower to define feasible alternatives and coordinate their implementation.
- (2) The DEQ (Mark Hope) by July 1, 1979 will investigate alternative disposal methods including those attached to this letter. The investigation will include cost considerations.
- (3) The DEQ (Carl Simons) by July 1, 1979 will develop a brief paper that demonstrates the effect of outdoor burning on ambient air standards, health and nuisance conditions. The paper will include information about backyard burning bans in other areas.
- (4) The DEQ (Dave Gemma) by July 1, 1979 will prepare pamphlets for public education on the problem, informing people of feasible alternatives to burning, preparing them for termination of burning.
- (5) The AQMA Committee, with the assistance of DEQ, will communicate to each city and county by July 1, 1979 the effect of open burning on air quality, the alternative disposal methods, and the need to determine the method it will implement.
- (6) The DEQ (Bob Gilbert) by October 1, 1979 will commence developing alternatives with each of the local jurisdictions and/or establish that the solution is regional and that MSD will implement alternatives or portion of alternatives.
- (7) The AQMA Committee by December 1, 1979 will review the open burning alternatives and implementation schedule(s). The committee will conduct public meetings.

- (8) The AQMA Committee by January 1, 1980 will submit the recommended plans to the EQC.

The Committee thanks you for the Department's recent efforts on the open burning problem.

Sincerely,



Steve Lockwood, Chairman
Portland AQMA Advisory Committee

SOME ALTERNATIVES TO OPEN BURNING

1. City make agreement with landfill operator to chip brush and use chips for landfill cover, or city chip brush and sell chips to landfill operator.
2. City shred brush and compost it. Sell compost. (Berkeley)
3. City buy or lease more portable chippers and visit neighborhoods on rotating basis as Portland is doing now for city storm debris.
4. City chip domestic brush at parks or other central neighborhood sites on established dates.
5. City use trucks to pick up brush which people leave out near street. (Old Westbury, N.Y.)
6. City pay haulers to pick up domestic brush. (Gladstone)
7. Haulers pick up brush charging customers extra.
8. City require haulers to pick up brush on designated dates.
9. People deliver brush to burning site in city on designated dates. High temperature burning methods are used.
10. City establish leaf pick up program and compost leaves. City could use compost or give it to gardeners.

GEORGE STARR
MULTNOMAH COUNTY
DISTRICT 17

REPLY TO ADDRESS INDICATED:

- HOUSE OF REPRESENTATIVES
SALEM, OREGON 97310
- 909 N.E. 114TH AVE.
PORTLAND, OREGON 97220



COMMITTEES
CHAIRMAN:
LEGISLATIVE OVERSIGHT
MEMBER:
LABOR
ELECTIONS

HOUSE OF REPRESENTATIVES
SALEM, OREGON
97310

March 5, 1979

William H. Young, Director
Department of Environmental Quality
522 S.W. 5th Avenue
Portland, OR 97201

Dear Bill:

It has come to my attention that the Portland Air Quality Maintenance Area Advisory Group (at least some of its members) is opposed to a proposal to extend backyard burning permission for another two years.

Constituents have asked if there is any way to justify backyard burning restrictions while at the same time permitting fireplace burning. I have been asked what is accomplished by prohibiting the burning of materials in a fire outside the home but permitting burning of the same materials in a fireplace inside the home, the smoke going outside.

I will appreciate any information you can share with me on this question.

Sincerely,

George Starr,
State Representative

GS/is

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED

MAR 8 1979

OFFICE OF THE DIRECTOR

LUVAAS, COBB, RICHARDS & FRASER, P. C.

JOHN L. LUVAAS
RALPH F. COBB
JOE B. RICHARDS
ROBERT H. FRASER
PAUL D. CLAYTON
DOUGLAS L. MCCOOL
DAVID L. SHAW
DENNIS W. PERCELL
LAURA A. PARRISH

ATTORNEYS AT LAW
777 HIGH STREET
EUGENE, OREGON 97401
MAILING ADDRESS
P. O. BOX 10747
EUGENE, OREGON 97440

TELEPHONE
464-9292
AREA CODE
503

November 13, 1978

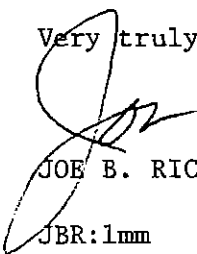
Mr. Wm. H. Young, Director
Department of Environmental Quality
P. O. Box 1760
Portland, Oregon 97207

Dear Bill:

✓
Enclosed please find the resolution of the Elmira Grange #523 received in my office November 10, 1978, for consideration and staff recommendation at the February meeting.

Thank you.

Very truly yours,


JOE B. RICHARDS

JBR:lmn

ENC

cc: Gladys Edmiston

Management Services Div.
Dept. of Environmental Quality

RECEIVED
NOV 16 1978

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
NOV 15 1978

OFFICE OF THE DIRECTOR

ELMIRA GRANGE #523

In view of the report that all open burning in the rural areas will not be allowed after July 1, 1979, we firmly believe that limited burning to remove excess trash and dangerous dry brush piles which are highly inflammable should be allowed in rural areas on a controlled basis.

Therefore, be it resolved by the Elmira Grange No. 523 meeting this 4th day of November 1978 go on record as being very much in favor of limited burning of excess trash and dangerous inflammable materials in our rural areas.

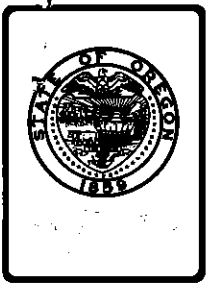
Therefore, we urge you to reconsider this ban on rural burning at your February 1979 meeting.

Master

William J. Anney

Secretary

Gladys Edmiston



Environmental Quality Commission

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. G(4), June 25, 1979, EQC Meeting

Proposed Adoption of Rules Relating to Enforcement and Contested Case Procedures. OAR 340-11-005(6); 340-11-116; 340-11-132; and 340-12-040.

Background

An objective of the Hearings Section has been to review procedural rules and suggest changes in the light of contested case experiences and changes in law. The enforcement group, the Justice Department, and Agency Management have participated and propose amendment of OAR 340-11-005(6) (filing), 340-11-116 (subpoenas), 340-11-132 (appeal of contested cases), and 340-12-040 (civil penalty notice violation). Authority to promulgate the proposed rules is provided by ORS 468.020, 468.120(1)(b)(2), 468.125, and 183.341(2).

A Statement of Need for Rulemaking is included as Attachment "A."

Alternatives and Evaluation

Following hearing authorization, further study and discussion produced the draft which, together with the comments of the Department's Counsel, is included as an attachment to the Hearing Officer's report (Attachment "B"). I believe this provides the best treatment of the problems addressed.

Alternatives include:

1. Retention of the rules in their present form;
2. Adoption of new rules in the form originally submitted with the Statement of Need for Rulemaking.



Contains
Recycled
Materials

Summation

The proposed amendment to OAR 340-11-005(6) defines "Filing" as "receipt in the office of the Director."


The proposed amendments to OAR 340-11-116 are to clarify who may obtain and/or issue subpoenas and who may modify or withdraw one, how to serve it, and who pays the fees.

The proposed amendments to OAR 340-11-132 are intended to remove the present provision for simultaneous filing of exceptions and argument by all parties.

The proposed amendments to OAR 340-12-040 add intentional violations, unauthorized deposition of sewage or solid waste, and unauthorized installation of subsurface sewage disposal systems to the list of violations for which the imposition of a civil penalty does not have to be preceded by a five-day notice. The proposed rule reflects the amendment of ORS 468.125 by the legislature in 1977.

Director's Recommendation

Based upon the Summation it is recommended that the rules contained in Attachment "B" be adopted by the Commission.



WILLIAM H. YOUNG

Attachments: Statement of Need for Rulemaking
Hearing Officer's Report
Written testimony of Robert L. Haskins, including
recommended rule

L. K. Zucker:mg
229-5383
June 14, 1979



Environmental Quality Commission

POST OFFICE BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission
 From: Director
 Subject: Agenda Item No. D, February 23, 1979, EQC Meeting

Authorization for Public Hearing on Procedural Rule Revision Proposals: Contested Cases

BACKGROUND

An objective of the Hearings Section has been to review procedural rules and suggest changes in the light of contested case experiences. The enforcement group, the Justice Department, and Agency Management have participated.

An attempt to refine the rules governing civil penalty amounts must await further study.

SUMMATION

1. ORS 468.020, 468.120(1)(b)(2), 468.125 and 183.341(2) provide statutory authority for these amendments.
2. The proposed amendments to OAR 340-11-116 are to clarify who may obtain and/or issue subpoenas and who may modify or withdraw one, how to serve it, and who pays the fees.
3. The proposed amendments to OAR 340-11-132 are intended to remove the present provision for simultaneous filing of exceptions and argument by all parties.
4. The proposed amendments to OAR 340-12-040 adds intentional violations, unauthorized deposition of sewage or solid waste, and unauthorized installation of subsurface sewage disposal systems to the list of violations for which the imposition of a civil penalty does not have to be preceded by a five-day notice.

DIRECTOR'S RECOMMENDATION

Based upon the Summation, it is recommended the Commission authorize one or more public hearings to be held for public comment on the proposed rules.

William H. Young
 WILLIAM H. YOUNG

MJDowns:cs
 229-6485
 2/13/79
 Attachment (1)

* NOTICE OF PUBLIC HEARING *

The Oregon Department of Environmental Quality (DEQ) is proposing to revise its rules regarding enforcement and contested case procedures. A public hearing on this matter will be held in Room 511 of the DEQ offices located at 522 S.W. Fifth (Yeon Building) in Portland, Oregon, at 2:00 p.m., on Tuesday, June 5, 1979.

WHAT IS THE DEQ PROPOSING?

Interested parties should request copies of the draft rule revisions. Some of the highlights are:

- *** Clarification of the procedures in obtaining, issuing, and serving subpoenas in a contested case proceeding.
- *** Clarification of the procedures by which a party to a contested case proceeding may appeal the decision.
- *** The addition of intentional violations, unauthorized deposition of sewage or solid waste, and unauthorized installation of subsurface sewage disposal systems to the list of violations for which a civil penalty may be imposed without the DEQ first serving a five-day warning notice on the violator.

WHO IS AFFECTED?

Persons, or attorneys representing clients, that may be involved in a contested case proceeding with the DEQ.

HOW TO SUBMIT YOUR INFORMATION:

Written comments should be sent to the Department of Environmental Quality, Hearings Section, P.O. Box 1760, Portland, Oregon 97207, and should be received by June 4, 1979.

Oral and written comments may be offered at the public hearing.

WHERE TO OBTAIN ADDITIONAL INFORMATION:

Copies of the draft rule may be obtained from:

Department of Environmental Quality
Hearing Section
P.O. Box 1760
Portland, Oregon 97207
(503) 229-5829

WHAT IS THE NEXT STEP?

The proposed rule revisions along with the Hearing Officers' recommendations from the testimony presented at the public hearing will be presented to the Environmental Quality Commission on June 29, 1979, for final consideration.

SECTION _____

(Note: Material proposed to be deleted is shown in brackets
[]; material proposed to be added is underlined)

Subpoenas [~~and~~ Depositions]

340-11-116 [Subpoenas and Depositions shall be as provided by ORS 183.425, 183.440, and 468.120 and shall be preceded by a showing of good cause, general relevance, and reasonable scope with regard to the evidence sought. Such showing may be by affidavit based on knowledge and belief. Subpoenas and Depositions may be modified or withdrawn for good cause shown.]

(1) Any party to a contested case, upon request shall be issued subpoenas to compel the attendance of witnesses and the production of books, records and documents.

(2) The party requesting the subpoena shall be responsible for serving the subpoena and tendering the fees and mileage to the witness.

(3) Subpoenas authorized by this section may be served by the party or any person over 18 years of age.

(4) Witnesses who are subpoenaed shall receive the same fees and mileage as in civil actions in the circuit court.

(5) Subpoenas may be issued by

(a) A hearing officer, or

(b) The Chairman of the Commission or

(c) The attorney of record of the party requesting the subpoena.

(6) A person present in a hearing room before a hearing officer during the conduct of a contested case hearing may be required, by order of the hearing officer, to testify in the same manner as if he were in attendance before the hearing officer upon a subpoena.

(7) Pursuant to a request by a subpoenaed witness a hearing officer or the Chairman of the Commission may modify or withdraw a subpoena upon good cause being shown therefor.

(8) Nothing in this section shall preclude the possibility

of making informal arrangements for the production of witnesses
or documents, or both.

Statutory Authority: ORS 468.020, 468.120(1)(b), (2)
183.341(2)

Hist: Filed and Eff. 9-13-76 as DEQ 122

Comment:

There is needed clarification concerning who may obtain and/or issue subpoenas and who may modify or withdraw one, how to serve it, and who pays the fees.

SECTION _____

"340-11-132 Appeal of [Presiding] Hearing Officer's [Officers' Proposed Order in Hearing Before Commission] Final Order.

(1) Hearing Officer's Final Order

In a contested case [before the Commission,] if a majority of the members of the Commission have not heard the case or considered the record, the [Presiding] Hearing Officer shall prepare a written [proposed order] Hearing Officer's Final Order including findings of fact and conclusions of law. [Copies] The original of the [proposed order] Hearing Officer's Final Order shall be filed with the Commission, and copies shall be served upon the parties in accordance with section 340-11-097 (regarding service of written notice).

(2) Hearing Officer Reconsideration or Rehearing;

Commencement of Appeal to the Commission

(a) [The parties shall have] The Hearing Officer's Final Order shall be the final order of the Commission unless within [fourteen (14)] 20 days from the date of mailing, or if not mailed then from the date of personal service, [in which to]

any of the parties or any ~~three or more~~ members of the Commission [file] files with the Commission and [serve] serves upon [the other parties] each party a [request that the Commission review the proposed order] Petition to the Hearing Officer for Reconsideration or Rehearing or a Notice of Appeal to the Commission. A proof of service thereof shall also be filed, but failure to file a proof of service shall not be a ground for dismissal of the petition or notice.

(b) If the Hearing Officer does not otherwise act, a timely served and filed Petition to the Hearing Officer for Reconsideration or Rehearing shall be deemed denied on the 20th day following the date the petition was filed, and in such a case, the Notice of Appeal to the Commission shall be served and filed within 20 days only following such date. If the Hearing Officer denies such a petition within 20 days of its filing then the Commission and parties shall have 20 days from the date of denial to serve and file a Notice of Appeal to the Commission pursuant to subparagraph (a) of this subsection (2). The grant or denial of such petition within 20 days of filing of the petition shall be made in writing and shall be filed with the Commission in order to be effective. It shall be deemed effective as of the date of filing. It shall also be served upon the parties. It need not state any grounds therefor.

(c) The timely filing and service of a Notice of

Appeal to the Commission is a jurisdictional requirement for the commencement of an appeal to the Commission and cannot be waived; a Petition to the Hearing Officer for Reconsideration or Rehearing or a Notice of Appeal to the Commission which is filed or served late shall not be considered and shall not affect the validity of the Hearing Officer's Final Order which shall remain in full force and effect.

[(3) Unless a timely request for Commission review is filed with the Commission, or unless within the same time the Commission, upon the motion of its Chairman or a majority of the members, decides to review it, the proposed order of the Presiding Officer shall become the final order of the Commission.]

(3) Automatic Stay Of Hearing Officer's Final Order

(a) The timely filing and service of a Petition to the Hearing Officer for Reconsideration or Rehearing shall automatically stay the effect of the Hearing Officer's Final Order until the petition is denied or the Hearing Officer's Final Order is modified or reissued.

(b) The timely filing and service of a sufficient Notice of Appeal to the Commission shall automatically stay the effect of the Hearing Officer's Final Order.

(4) Contents of Petition to Hearing Officer for Reconsideration or Rehearing - A Petition to the Hearing Officer for

///

Reconsideration or Rehearing shall be in writing and shall state the grounds and arguments therefor.

(5) Contents of Notice of Appeal to the Commission

A Notice of Appeal to the Commission shall be in writing and need only state the party's or ³three or more Commissioners' intent that the Commission review the Hearing Officer's Final Order.

[[4]] (6) Procedure on Appeal (a) Appellant's Exceptions and Brief -[If the Commission review is invoked, then the parties] The Appellant (appealing party) shall [be given] within [thirty] 30 days from the date of service or filing of his Notice of Appeal to the Commission, whichever is later, [mailing or personal service of the Presiding Officer's proposed order, or such further time as the Director or Commission may allow, to] file with the Commission and serve upon [the other parties] each other party written exceptions [and arguments to the proposed order.] , brief and proof of service. Such exceptions [and arguments] shall specify those findings and conclusions objected to and reasoning, and shall include proposed alternative findings of fact, conclusions of law, and order [and shall include] with specific references to those portions of the record upon which the party relies. In any case where more than one party timely serves and files a Notice of Appeal to the Commission the first filed shall be considered to be the appeal and the second the cross appeal. *Matters not raised before the hearing officer, except for cause shown, shall not be considered.*

(b) Appellee's Brief - Each party so served with exceptions and brief shall then have 30 days from the date of service or filing, whichever is later, in which to file with the Commission and serve upon each other party an answering brief and proof of service.

(c) Reply Brief - Except as provided in (6)(d) below, each party served with an answering brief shall have 20 days from the date of service or filing, whichever is later, in which to file with the Commission and serve upon each other party a reply brief and proof of service.

(d) Cross Appeals - Should any party entitled to file an answering brief so elect, he may also cross appeal to the Commission the Hearing Officer's Final Order by filing with the Commission and serving upon each other party in addition to an answering brief a Notice of Cross Appeal, exceptions (described above at (6)(a)), a brief on cross appeal and proof of service, all within the same time allowed for an answering brief. The appellant-cross appellee shall then have 30 days in which to serve and file his reply brief, cross answering brief and proof of service. There shall be no cross reply brief without leave of the Chairman or the Hearing Officer. [As to any findings of fact made by the Presiding Officer, the Commission may make an identical finding without any further consideration of the record. Further, the Commission may make a finding identical to that proposed by all parties other than the agency without any

change proposed
by McSwain

- further consideration of the record.]

[Auth. note: see (6)(j) below]

(e) Briefing on Commission Invoked Review - Where one
[three] or more members of the Commission commence an appeal
to the Commission pursuant to subsection (2)(a) above, and
where no party to the case has timely served and filed a
Notice of Appeal to the Commission, the Chairman shall prompt-
ly notify the parties of the issues that the Commission desires
the parties to brief and of the schedule for filing and serving
briefs. The parties shall limit their briefs to those issues.
Where three or more members of the Commission have commenced
an appeal to the Commission and a party has also timely
commenced such a proceeding, briefing shall follow the
schedule set forth in subparagraphs (a), (b), (c), (d),
(f) and (i) of this subsection (6).

(f) Extensions - The Chairman or a Hearing Officer,
upon request, may extend any of the time limits contained
in this subsection (6). Each extension shall be made
in writing and be served upon each party. Any request for
an extension may be granted or denied in whole or in part.

(g) Failure to Prosecute - The Commission may dismiss
any appeal (or cross appeal) if the appellant (or cross
appellant) fails to timely file and serve any exceptions or
brief required by these rules.

[(5)] (h) Oral Argument - Following the expiration
of the time allowed the parties to present exceptions and [ar-

guments] briefs, the Chairman may at his discretion schedule the [matter] appeal for oral argument before the Commission.

[(6)] (i) Commission Review Prior to Completion of Briefing - [Notwithstanding whether the procedures set out in subsection (1) through (5) of this section have been completed,] Following the timely service and filing of a sufficient Notice of Appeal to the Commission a majority of the members of the Commission may at any time personally consider the whole record or appropriate portions thereof and issue a final order based thereon notwithstanding the fact that the procedures set out in subparagraphs (a) through (h) of this subsection (6) have not been completed.

[(7)] (j) Scope of Review - In [reviewing] an appeal to the Commission of a [proposed order prepared by a Presiding Officer,] Hearing Officer's Final Order, the Commission may, based upon the record made before the [Presiding] Hearing Officer or appropriate portions thereof, substitute its judgment for that of the [Presiding] Hearing Officer in making any particular finding of fact, conclusion of law, or order. As to any finding of fact made by the Hearing Officer the Commission may make an identical finding without any further consideration of the record.

[(8)] (k) Additional Evidence - In [reviewing] an appeal to the Commission of a [proposed order prepared by a Presiding Officer,] Hearing Officer's Final Order, the Commission may take additional evidence. Requests to present additional

evidence shall be submitted by motion and shall be supported by [an affidavit] a statement specifying the reason for the failure to present it at the hearing before the [Presiding] Hearing Officer. If the Commission grants the motion, or so decides of its own motion it may hear the additional evidence itself or remand to a [Presiding] Hearing Officer upon such conditions as it deems just.

Statutory Authority: ORS 468.020 and 183.341(2)

Hist: Filed 9-6-74 as DEQ 78, Eff. 9-25-74

Amended by DEQ 115, Filed and Eff. 7-6-76"

COMMENT

The intent here is to remove the present provision for simultaneous filing of exceptions and argument by all parties who wish to do so. The parties requesting review must file them. Those not requesting review initially have two new options. The first is to respond to the exceptions and arguments of others after having seen them, rather than trying to anticipate them. The second is to elect to request review and propose an alternative order in light of the fact that an adversary has done so. Some litigants might choose not to seek review unless an adversary does so. Under the present rule they must seek review if they even suspect an adversary will or their opportunity goes out the window. Under the proposal, all parties will have an opportunity to respond to the exceptions and arguments of others so as to fully inform the Commission regarding the respective positions of each of the parties involved. The time limitations can be enlarged by the Commission or the presiding officer. The current rule results in many requests to the Director for extensions and places the Director in the center of controversies between his own counsel and opposing litigants. It hasn't proven comfortable to administer.

SECTION _____

"340-12-040 Notice of Violation (1) Except as provided in subsection (3) of this section, prior to the assessment of any civil penalty the Department shall serve a [written notice] Notice of [violation] Violation upon the respondent. Service shall be in accordance with section 340-11-097.

(2) A [notice] Notice of [violation] Violation shall be in writing, specify the violation and state that the Department will assess a civil penalty if the violation continues or occurs after five days following [service] receipt of the notice.

(3)(a) [Written notice] A Notice of Violation shall not be required where the respondent has otherwise received actual notice of the violation not less than five days prior to the violation for which a penalty is assessed.

(b) No advance notice, written or actual, shall be required where:

(i) the act or omission constituting the violation is intentional;

(ii) the violation consists of disposing of solid waste or sewage at an unauthorized disposal site;

(iii) the violation consists of constructing a sewage disposal system without the department's permit;

(iv) [where] the water pollution, air pollution, or air contamination source would normally not be in existence for five days[,]; or

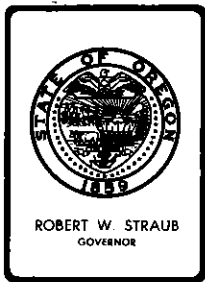
(v) [where] the water pollution, air pollution or air contamination source might leave or be removed from the jurisdiction of the department.

Statutory Authority: ORS 468.020, 468.125, 183.341(2)

Hist: Filed 9-6-74 as DEQ 78, Eff. 9-25-74"

COMMENT

1977 Oregon Laws, Chapter 317, Section 3 amended ORS 468.125 by adding intentional violations, unauthorized deposition of sewage or solid waste, and unauthorized installation of subsurface sewage disposal systems to the list of violations for which the imposition of a civil penalty does not have to be preceded by a five-day notice. The present rule does not reflect this amendment and requires the Department to give notice where it was required by the old statute. It will allow the Department to proceed with the full latitude allowed by the statute.



Environmental Quality Commission

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission
From: Hearing Officer
Subject: Agenda Item No. G4, June 29, 1979, EQC Meeting

Proposed Adoption of Rules Relating to Enforcement
and Contested Case Procedures. OAR 340-11-005 (6);
340-11-116; 340-11-132; and 340-12-040.

Following public notice, a hearing was convened in Room 511 of the DEQ offices located at 522 Southwest Fifth in Portland, Oregon at 2:00 p.m. on June 5, 1979. The purpose was to receive testimony on proposed revisions to administrative rules regarding enforcement and contested case procedures.

Although the Department had complied with several requests for copies of the proposed rules, no one appeared to provide oral testimony. Van Kollias, the Department's representative, requested that the record be kept open until June 12, 1979, to permit receipt of written testimony.

On June 6, 1979, Robert L. Haskins, Assistant Attorney General, submitted proposed changes to certain present practice, procedure and civil penalty rules. His proposals and comments are included in this report as an attachment.

Recommendation:

I recommend revision of the rules in the form proposed by Mr. Haskins.

Respectfully submitted,

Linda K. Zucker
Hearing Officer

LKZ:jo
(503) 229-5383
June 15, 1979
Attachment



Contains
Recycled
Materials

COMMENTS

This proposed amendment is offered to make express the Commission's previous interpretation of its rule and to attempt to eliminate the possibility that it might be misunderstood by a respondent in the future.

It has been argued that the Commission's interpretation of this rule could work an injustice on a respondent who intends to seek Commission review and whose request for review is promptly deposited in the mails but is unreasonably delayed or is lost in the mails; and therefore, the appeal to the Commission is not commenced timely and is dismissed. The question is, who should take the risk of non-delivery and delayed delivery; the Commission or the respondent?

One possibility which has been suggested by some would be to define filing as being made when a document is deposited in the mail correctly addressed. Requiring registered or certified mail would aid in the proof of deposit of documents which are actually delivered. However, the crucial problem arises with the matter of the document that is deposited in the mail but is never delivered. Because the timely filing of a request for review prevents a hearings officer's proposed order from becoming final, OAR 340-11-132(3), if a timely deposit in the mail is deemed to be effective filing, then with respect to any such request which is filed but never received, the Department and Commission will never have any reason to know that the hearings officer's proposed

order did not become final. That is, they will never receive anything. If deposit in the mail is sufficient, the requirement for registered or certified mail will not solve the Department's and Commission's problem when nothing is delivered.

If such a phenomenon only affected those cases where a request for review were deposited in the mail but never delivered, the Department and Commission could probably live with those statistically infrequent cases. However, the effect is far greater. The phenomenon affects each case in which a request for review is not received. That is, it also affects those cases in which a request for review is not received because it was not mailed. Those cases are statistically much more frequent and therefore significant. In other words, when the Department and Commission do not receive a request for review, they will not know whether it was because one was timely deposited in the mail and not delivered or rather because one was not mailed at all. More importantly, they would not know whether the hearings officer's proposed order had or had not become final and therefore whether or not, for example in the case of a civil penalty, they could file it as a judgment lien in the circuit court records, or otherwise enforce it.

In order to provide a clear-cut test to establish the finality of a hearings officer's proposed order, we propose to continue the Commission's interpretation of its defini-

tion of "filing" by expressly requiring receipt in the office of the Director.

Ordinarily, it is reasonable to expect that a document placed in the United States mail will be delivered within a reasonable amount of time. Therefore, ordinarily it would be reasonable for any respondent in this state to rely on the mails to deliver the mail to Portland in the reasonable, ordinary course. The reasonable, ordinary course probably would not exceed five days from anywhere in the state and probably would not exceed two days for the majority of that mail. Therefore, the existing requirement of filing and serving a request for review within 14 days of the service of the hearings officer's proposed order is ordinarily, reasonable. OAR 340-11-132(2).

However, it is possible that unreasonable delays in mail delivery could make compliance with the 14-day rule difficult if not impossible. Therefore, concurrently with this proposal, the Department is proposing to the Commission that the 14-day requirement be extended to 30 days in order to provide a respondent with sufficient time to mail and for the Commission to receive a request for review, even given most if not all delays in the delivery of the mail. Proposed OAR 340-11-132(2)(a) (June 5, 1979). Furthermore, a respondent will always have other safeguards. If a respondent deposits a request for review in the mail and it has not been received by, for example, the day before the due

date, then this fact may be confirmed by telephone and other provisions for delivery of a request for review can be made. A request can always be delivered personally. The majority of the people under the jurisdiction of the Department and Commission live within a two-hour automobile ride from the Director's office. Furthermore, a telegram would suffice. It should be remembered that a request for review need not be long. All that is required is to state that "I request that the Commission review the hearings officer's proposed order."

COMMENTS

The proposed amendments clarify who may obtain, issue, serve, modify and withdraw a subpoena; how a subpoena shall be served; and who is responsible for serving it and paying the fees.

COMMENTS:

The main purpose of the proposed amendments is to replace the existing system of simultaneous filing of exceptions and briefs with a system of consecutive filing of exceptions and briefs. The existing system has proven unworkable. It requires appellees to anticipate the appellants' arguments before seeing them. Furthermore, it can encourage excessive appeals by requiring a party to appeal in order to protect its record before knowing whether the opposing party is going to appeal. The result of such an unworkable system has been motions to the Director in numerous cases requesting the establishment of consecutive briefing in lieu of simultaneous briefing. The proposed amendments would establish by rule the system of briefing which has been established by motion practice and which has proven to be successful in defining the issues for resolution in an appeal before the Commission.

The proposed amendments would also define a hearing officer's ruling as a "Hearing Officer's Final Order." Such a final order would be final unless and until a Notice of Appeal to the Commission is timely filed and served, proposed OAR 340-11-132(2)(a), in which case the Hearing Officer's Final Order would be stayed. Proposed OAR 340-11-132(2)(c). By denominating the hearing officer's order as a final order, rather than a proposed order as the present rule

provides, it would better describe the true effect of the order and would simplify procedures in filing civil penalty judgment final orders in the circuit courts. Presently, a very awkward procedure is followed in filing civil penalty judgment final orders. The problem arises from the fact that when the order is issued by the hearing officer, it is defined as merely a proposed order, not a final order. Not until 14 days pass without the filing of a request for Commission review does the proposed order become final. OAR 340-11-132(3). Therefore, when that occurs, the hearing officers have physically added the language "Now Final" to the title of the proposed order along with a certificate reciting those facts and the effect of the rule before filing the "Now Final" proposed order with the circuit courts' judgment records. Such a procedure is extremely clumsy. The intent of the proposed rule is to do away with the necessity of that clumsy procedure by defining the order as final when issued. Although the Hearing Officer's Final Order would be subject to a possible stay upon the timely filing of a Notice of Appeal, it would in that instance be as final as a circuit court money judgment which would also be subject to a possible stay upon appeal in certain circumstances. If the Hearing Officer's Final Order is not timely appealed to the Commission, then it would be in the appropriate form to be filed in the circuit court judgment records without change.

What is now known as a written "Request for Commission Review" would be changed to a "Notice of Appeal," which would better describe the function of the document in terms familiar to attorneys and laymen alike. Proposed OAR 340-11-132(2)(a). It is also proposed that the present 14-day limit for filing a request for Commission review be extended to 30 days in order to be more than reasonable. Statutes of limitations for filing appeals with administrative agencies providing as few as five days have been enforced by the Oregon Court of Appeals. Williams v. Cody, 24 Or App 433, ___ P2d ___ (1976).

The proposed amendments would also reduce the number of Commission members, other than the Chairman, that can commence an appeal to the Commission from three to one. Proposed OAR 340-11-132(2)(a).

It is also proposed that the Commission's interpretation that its request for review filing requirement is a non waivable jurisdictional requirement be expressly set forth in the rule. See proposed OAR 340-11-132(2)(b).

In the draft of the proposed amendments which accompanied the Department's request for authorization to hold public hearings, there was language providing an opportunity for a party to file a petition with the hearing officer to rehear or reconsider the hearing officer's final order prior to its being reviewed by the Commission. After considering the matter further, we propose to delete that language for

several reasons. The presence of the provision would add considerable complexity to the rules. In light of infrequent demand for such a procedure experienced in the past, it would appear that on the balance more would be lost by the added complexity than would be gained by providing an express procedure which would allow the hearing officer to correct an error which is brought to attention after ruling. Furthermore, in the past the Hearings Section has ruled on a petition for reconsideration even in the absence of a specific rule dealing with the subject.

Regarding the required procedures on appeal, in addition to the establishment of consecutive briefing, the Department proposes to clarify the procedures by changing some of the terminology. As indicated above, review by the Commission would be referred to as an appeal. Therefore, the appealing party would be referred to as the appellant, the opposing party as the appellee, and the written arguments as briefs. These are well understood terms which would aid clarity and simplicity by providing single word references to describe the process, parties, and documents involved.

Except in extreme circumstances, the proposed rules would expressly limit the issues that could be presented to the Commission to those which were raised before the Hearing Officer. Such a requirement has a corollary in court procedures and is founded on basic concepts of fairness and

orderly process. By requiring a party to first raise an issue before the hearing officer, it gives the opposing party a fair opportunity to counter the matter, for example, by offering contrary or correcting evidence. It also allows the hearing officer to decide the issue based on all the arguments. Conversely, it prevents a party from sandbagging an opposing party. An example may be helpful. Assume that a party presents persuasive evidence on one of the elements of a violation or defense. Assume that although the evidence is persuasive, it is technically objectionable as hearsay, but that the opposing party did not make such an objection at the hearing. Assume even further that had such an objection been made and sustained, the party offering the evidence could have offered persuasive nonhearsay evidence on the issue but at much greater difficulty and expense to the client. In a court of law the hearsay evidence would not be stricken on appeal because the objection would be held to have been waived by failure to raise it timely at trial. Thereby, the proponent and the judge are not unfairly sandbagged under circumstances where they could have corrected their theoretical errors if the issue had been raised at the trial. Fundamental concepts of fairness and orderly process dictate the same result in administrative litigation.

Regarding the matter of extensions for briefing, it is proposed that instead of being issuable by "the Director or

Commission," OAR 340-11-132(4), they be made issuable by a hearing officer or the Chairman. Proposed OAR 340-11-132(4)(f). The existing rule has put the Director in an awkward position. Of course, he is the chief administrative officer of the Department, one of the parties in the contested case, yet the existing rule requires him to pass on requests for extensions made on behalf of his Department and on behalf of the opposing party. Such a procedure has the appearance of a potential lack of objectivity. That can be cured by delegating that authority to a hearing officer, who also probably would be more familiar with the history of the case so as to be better able to deal with the merits of the request. The proposed substitution of the Chairman for the Commission would probably better allow the necessary prompt response to such a request.

In proposed paragraph (g) of subsection (4), the Department proposes that the Commission make express its previous interpretation that failure to diligently prosecute an appeal constitutes grounds for dismissing an appeal.

Existing subsection (6) had as its major purpose the intent to allow the Commission when appropriate to shortcut the appeals process. That is, it expressly allows a majority of the Commission to consider the record made before a hearing officer and issue a final order at any time regardless of whether the briefing has been completed. Such expedited action might be appropriate when prompt Commission

action is necessary to address a serious environmental matter and the following of the full appeal procedures would unnecessarily delay the issuance of the final order. However, for that purpose, existing subsection (6) is redundant because by statute, ORS 183.460, and by existing subsection (1) the requirement that a hearing officer's proposed order be issued and that an opportunity to file exceptions and arguments be provided does not apply if a majority of the Commission have "considered the record."

In addition to providing a redundant exception as described in the immediately preceding paragraph, subsection (6) also could be interpreted to allow the Commission to waive any and all of the requirements of the rule including the filing of a timely notice of appeal, exceptions, and arguments. This is inconsistent with the Commission's interpretation of its request for Commission review filing requirement as jurisdictional, which interpretation is proposed to be made express. Proposed OAR 340-11-132(2)(a). Furthermore, regarding extensions of the time limits for filing exceptions and arguments, it is redundant of the Commission's power to make such extensions under the existing rule, OAR 340-11-132(4), and would also supplement the proposed paragraph dealing with extensions. Proposed OAR 340-11-132(4)(f). Finally, regarding the Commission's authority to expand the issues when appropriate under the proposed amendments, it is redundant of proposed OAR

340-11-132(4)(a) which would provide that the issues may be broadened when necessary to prevent manifest injustice.

Because existing subsection (6) could undermine the Commission's interpretation of its request for review filing requirement as jurisdictional and because the other relief which it might provide is provided for expressly in other provisions of the rule, we propose to delete existing subsection (6). Furthermore, the presence of existing subsection (6) tends to overemphasize the possible exceptions to the requirements of the rules and, being open ended, may tend to invite defaulting parties to request unwarranted exceptions to the rules.

Existing subsection (7) is proposed to be renumbered (4)(i). The language in existing subsection (7) "based upon the record made before the Presiding Officer or appropriate portions thereof" is proposed to be deleted because it is inconsistent with the last sentence of proposed (4)(i). That sentence was taken almost verbatim from existing subsection (4). That sentence allows the Commission to make any finding of fact identical to the hearing officer's finding "without any further consideration of the record." Although the language proposed to be deleted does not directly require the Commission to personally consider the record, it might be so interpreted. It is clear that the Commission need not personally consider the record, at least in the case of its adopting its hearing officer's ruling. ORS

183.460(1977); Markantonatos v. OLCC, 29 Or App 79, 84-85, 562 P2d 570 (1977). Subsection (5) of ORS 183.450 requires, among other things, that a Commission "order be issued upon consideration of the whole record or such portions thereof as may be cited by any party, and as supported by, and in accordance with, reliable, probative and substantial evidence." (Emphasis added.) That subsection was in existence when the Markantonatos case was decided. That case can be harmonized with ORS 183.450(5) where the agency adopts the hearing officer's ruling, under a theory of delegation. In other words, it can be theorized that an agency such as the Commission delegates the necessary ORS 183.450(5) "consideration of the record" to the hearing officer, and therefore, under the Markantonatos case the Commission need not again consider it personally itself. Such a delegation theory would break down if the Commission reversed a hearing officer's finding without considering the record. Some people would read the Markantonatos case as allowing an agency to make any ruling, including reversing a hearing officer's finding, without personally considering the record, subject only to review for substantial evidence and other statutory grounds in the Court of Appeals. Such a result would read out of ORS 183.450(5), the "consideration of the . . . record" requirement, although such is clearly stated as a requirement in addition to the substantial evidence requirement contained in that subsection. We do not intend to

resolve these conflicting interpretations at this time. The proposed amendment would be consistent with either the delegation theory or the broad interpretation of the Markantonatos case. The statement that the Commission can make a ruling identical with the hearing officer's without further consideration of the record is made only with the intent to make that point clear, and not with the intent to limit the Commission in deciding cases without personally considering the record to only cases where it rules identical to its hearing officer. Under the proposed rule the Commission would be free to follow either interpretation, according to its informed discretion based upon its experience, legal advice, and new developments, if any, in the law.

Finally, the proposed rules would drop the requirement that a request to present additional evidence be supported by an affidavit. We are of the opinion that to require an affidavit is unnecessarily formal. Instead, it is proposed that a mere statement of reasons be offered in support of the request.

COMMENTS

1977 Oregon Laws, Chapter 317, Section 2 amended ORS 468.125 by adding intentional violations, unauthorized deposition of sewage or solid waste, and unauthorized installation of subsurface sewage disposal systems to the list of violations for which the imposition of a civil penalty does not have to be preceded by a five-day notice. The present rule does not reflect this amendment and requires the Department to give notice where it was required by the old statute. It will allow the Department to proceed with the full latitude allowed by the statute.

1 PROPOSED AMENDMENTS TO

2 OAR 340-12-040

3 CIVIL PENALTY NOTICE OF VIOLATION

4 June 5, 1979

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6 OAR 340-12-040 is proposed to be amended to read as
7 follows (material proposed to be deleted is shown in brackets [];
8 material proposed to be added is underlined):

9
10 "Notice of Violation

11 "340-12-040 Notice of Violation (1) Except as provided
12 in subsection (3) of this section, prior to the assessment
13 of any civil penalty the Department shall serve a [written
14 notice] Notice of [violation] Violation upon the respondent.
15 Service shall be in accordance with section 340-11-097.

16 "(2) A [notice] Notice of [violation] Violation shall be
17 in writing, specify the violation and state that the Department
18 will assess a civil penalty if the violation continues or
19 occurs after five days following [service] receipt of the
20 notice.

21 "(3)(a) [Written notice] A Notice of Violation shall
22 not be required where the respondent has otherwise received
23 actual notice of the violation not less than five days prior
24 to the violation for which a penalty is assessed.

25 "(b) No advance notice, written or actual, shall be re-
26 quired where:

1 "(i) the act or omission constituting the
2 violation is intentional;

3 "(ii) the violation consists of disposing of solid
4 waste or sewage at an unauthorized disposal site;

5 "(iii) the violation consists of constructing a
6 sewage disposal system without the department's permit;

7 "(iv) the water pollution, air pollution, or air
8 contamination source would normally not be in existence
9 for five days[,]; or

10 "(v) [where] the water pollution, air pollution
11 or air contamination source might leave or be removed
12 from the jurisdiction of the department.

13 "Statutory Authority: ORS 468.020, 468.125, 183.341(2)

14 "Hist: Filed 9-6-74 as DEQ 78, Eff. 9-25-74"
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JUL 02 1979

1 PROPOSED AMENDMENTS TO

2 OAR 340-11-132

3 APPEALS OF CONTESTED CASES TO THE COMMISSION

4 June 5, 1979

5 OAR 340-11-132 is proposed to be amended to read as
6 follows (material proposed to be deleted is shown in
7 brackets []; material proposed to be added is underlined):

8 "[Presiding Officer's Proposed Order in Hearing Before
9 the Commission]

10 "340-11-132 Appeal of Hearing Officer's Final Order.

11 "(1) Hearing Officer's Final Order

12 "In a contested case [before the Commission,] if a
13 majority of the members of the Commission have not heard
14 the case or considered the record, the [Presiding] Hearing
15 Officer shall prepare a written [proposed order] Hearing
16 Officer's Final Order including findings of fact and con-
17 clusions of law. [Copies] The original of the [proposed order]
18 Hearing Officer's Final Order shall be filed with the
19 Commission, and copies shall be served upon the parties in
20 accordance with section 340-11-097 (regarding service of
21 written notice.)

22 "(2) Commencement of Appeal to the Commission

23 "(a) [The parties shall have] The Hearing Officer's
24 Final Order shall be the final order of the Commission
25 unless within [fourteen (14)] 30 days from the date of
26 mailing, or if not mailed then from the date of personal

1 service, [in which to] any of the parties or a member
2 of the Commission [file] files with the Commission and
3 [serve] serves upon [the other parties] each party a
4 [request that the Commission review the proposed order]
5 Notice of Appeal. A proof of service thereof shall also
6 be filed, but failure to file a proof of service shall
7 not be a ground for dismissal of the Notice of Appeal.

8 "(b) The timely filing and service of a Notice of
9 Appeal is a jurisdictional requirement for the commence-
10 ment of an appeal to the Commission and cannot be waived;
11 a Notice of Appeal which is filed or served late shall
12 not be considered and shall not affect the validity of
13 the Hearing Officer's Final Order which shall remain
14 in full force and effect.

15 "(c) The timely filing and service of a sufficient
16 Notice of Appeal to the Commission shall automatically
17 stay the effect of the Hearing Officer's Final Order.

18 "[3) Unless a timely request for Commission review
19 is filed with the Commission, or unless within the same
20 time the Commission, upon the motion of its Chairman or
21 a majority of the members, decides to review it, the
22 proposed order of the Presiding Officer shall become the
23 final order of the Commission.]

24 "(3) Contents of Notice of Appeal. A Notice of
25 Appeal shall be in writing and need only state the party's
26 or a Commissioner's intent that the Commission review

1 the Hearing Officer's Final Order.

2 "(4) Procedures on Appeal

3 "(a) Appellant's Exceptions and Brief - [If the
4 Commission review is invoked, then the parties shall be
5 given within thirty] Within 30 days from the date of service
6 or filing of his Notice of Appeal, whichever is later,
7 [mailing or personal service of the Presiding Officer's
8 proposed order, or such further time as the Director or
9 Commission may allow, to] the Appellant (appealing party)
10 shall file with the Commission and serve upon [the other
11 parties] each other party written exceptions [and arguments
12 to the proposed order.], brief and proof of service. Such
13 exceptions [and arguments] shall specify those findings and
14 conclusions objected to and reasoning, and shall include
15 proposed alternative findings of fact, conclusions of law,
16 and order [and shall include] with specific references to
17 those portions of the record upon which the party relies.
18 Matters not raised before the Hearing Officer shall
19 not be considered except when necessary to prevent manifest
20 injustice. In any case where opposing parties timely
21 serve and file Notices of Appeal, the first to file shall
22 be considered to be the appellant and the opposing party
23 the cross appellant.

24 "(b) Appellee's Brief - Each party so served with
25 exceptions and brief shall then have 30 days from the
26 date of service or filing, whichever is later, in which

1 to file with the Commission and serve upon each other
2 party an answering brief and proof of service.

3 "(c) Reply Brief - Except as provided in (4) (d)
4 below, each party served with an answering brief shall
5 have 20 days from the date of service or filing, which-
6 ever is later, in which to file with the Commission and
7 serve upon each other party a reply brief and proof of
8 service.

9 "(d) Cross Appeals - Should any party entitled to
10 file an answering brief so elect, he may also cross
11 appeal to the Commission the Hearing Officer's Final
12 Order by filing with the Commission and serving upon
13 each other party in addition to an answering brief a
14 Notice of Cross Appeal, exceptions (described above at
15 (4)(a)), a brief on cross appeal and proof of service,
16 all within the same time allowed for an answering brief.
17 The appellant-cross appellee shall then have 30 days in
18 which to serve and file his reply brief, cross answering
19 brief and proof of service. There shall be no cross reply
20 brief without leave of the Chairman or the Hearing Officer.

21 [As to any findings of fact made by the Presiding Officer,
22 the Commission may make an identical finding without any
23 further consideration of the record. Further, the Commission
24 may make a finding indential to that proposed by all parties
25 other than the agency without any further consideration of
26 the record.]

1 "(e) Briefing on Commission Invoked Review - Where
2 one or more members of the Commission commence an appeal
3 to the Commission pursuant to subsection (2)(a) above,
4 and where no party to the case has timely served and
5 filed a Notice of Appeal, the Chairman shall promptly
6 notify the parties of the issue that the Commission
7 desires the parties to brief and the schedule for filing
8 and serving briefs. The parties shall limit their briefs
9 to those issues. Where one or more members of the Com-
10 mission have commenced an appeal to the Commission and
11 a party has also timely commenced such a proceeding, brief-
12 ing shall follow the schedule set forth in subpara-
13 graphs (a), (b), (c), (d), and (f) of this subsection (4).

14 "(f) Extensions - The Chairman or a Hearing Officer,
15 upon request, may extend any of the time limits contained
16 in this subsection (4). Each extension shall be made in
17 writing and be served upon each party. Any request for
18 an extension may be granted or denied in whole or in
19 part.

20 "(g) Failure to Prosecute - The Commission may
21 dismiss any appeal or cross appeal if the appellant
22 or cross appellant fails to timely file and serve any
23 exceptions or brief required by these rules.

24 "[(5)] (h) Oral Argument - Following the expira-
25 tion of the time allowed the parties to present excep-
26 tions and [arguments] briefs, the Chairman may at his

1 discretion schedule the [matter] appeal for oral argument
2 before the Commission.

3 "[6) Notwithstanding whether the procedures set out
4 in subsection (1) through (5) of this section have been
5 completed, a majority of the members of the Commission
6 may at any time personally consider the whole record or
7 appropriate portions thereof and issue a final order
8 based thereon.

9 "[7)] (i) Scope of Review - In [reviewing] an appeal
10 to the Commission of a [proposed order prepared by a
11 Presiding Officer,] Hearing Officer's Final Order, the
12 Commission may [, based upon the record made before the
13 Presiding Officer or appropriate portions thereof,] sub-
14 stitute its judgment for that of the [Presiding] Hearing
15 Officer in making any particular finding of fact, con-
16 clusion of law, or order. As to any finding of fact made
17 by the Hearing Officer the Commission may make an identical
18 finding without any further consideration of the record.

19 "[8)] (j) Additional Evidence - In [reviewing] an
20 appeal to the Commission of a [proposed order prepared
21 by a Presiding Officer,] Hearing Officer's Final Order,
22 the Commission may take additional evidence. Requests
23 to present additional evidence shall be submitted by
24 motion and shall be supported by [an affidavit] a state-
25 ment specifying the reason for the failure to present it
26 at the hearing before the [Presiding] Hearing Officer.

1 If the Commission grants the motion, or so decides of its
2 own motion it may hear the additional evidence itself or
3 remand to a [Presiding] Hearing Officer upon such condi-
4 tions as it deems just.

5 "Statutory Authority: ORS 468.020 and 183.341(2)

6 "Hist: Filed 9-6-74 as DEQ 78, Eff. 9-25-74

7 "Amended by DEQ 115, Filed and Eff. 7-6-76"

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1 PROPOSED AMENDMENTS TO

2 OAR 340-11-116

3 SUBPENAS

4 June 5, 1979

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6 OAR 340-11-116 is proposed to be amended as follows (material
7 proposed to be deleted is shown in brackets []; material
8 proposed to be added is underlined):

9
10 "[Subpenas and Depositions]

11 "340-11-116 Subpenas [and Depositions shall be as provided
12 by ORS 183.425, 183.440, and 468.120 and shall be preceded
13 by a showing of good cause, general relevance, and reasonable
14 scope with regard to the evidence sought. Such showing may
15 be by affidavit based on knowledge and belief. Subpenas
16 and Depositions may be modified or withdrawn for good cause
17 shown.]

18 "(1) Upon a showing of good cause and general relevance
19 any party to a contested case shall be issued subpenas to
20 compel the attendance of witnesses and the production of
21 books, records and documents.

22 "(2) Subpenas may be issued by

23 (a) A hearing officer, or

24 (b) A member of the Commission or

25 (c) An attorney of record of the party requesting
26 the subpoena.

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PROPOSED AMENDMENTS TO
OAR 340-11-005(6)
DEFINITION OF "FILING"
June 5, 1979

OAR 340-11-005(6) is proposed to be amended to read as follows (material proposed to be deleted is shown in brackets []; material proposed to be added is underlined):

"Definitions

"OAR 340-11-005 Definitions

"(6) "Filing" means [the completed mailing to or service upon] receipt in the office of the Director. Such filing is adequate where filing is required of any document with regard to any matter before the Commission, Department [,] or Director, except a claim of personal liability."



Environmental Quality Commission

POST OFFICE BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

To: Environmental Quality Commission
From: Director
Subject: Agenda Item H(1), June 29, 1979, EQC Meeting

Request for an Extension of Variances from Rules Prohibiting
Open Burning Dumps, OAR 340-61-040(2)(c), for Lake County

Background

At the April 27, 1979 EQC meeting, staff presented variance requests from Lake County and the City of Paisley (Agenda Item No. J(2) attached) to allow for continued open burning at seven rural solid waste disposal sites. At that time staff was directed to meet with Lake County and the City of Paisley and request information to support a variance past July 1, 1979.

Discussion

Department staff met with Lake County and the City of Paisley on June 6, 1979 to request further information to support the variance extension. Possible phasing to upgrade the larger sites first (Paisley - Christmas Valley - Silver Lake and Summer Lake during hunting season) was discussed. In response to the meeting, the Lake County attorney has written to request attendance at an EQC meeting to present Lake County's position regarding open burning (copy attached). No information to support a continued variance was submitted.

Lake County and the City of Paisley have been notified of the location of the June 29, 1979 meeting and have been invited to attend.

Possible Alternatives and Expected Consequences

Alternatives were discussed in the April 27, 1979 staff report.

Summation

1. The City of Paisley and Lake County routinely open burn garbage at rural disposal sites in Lake County.
2. The Environmental Quality Commission, on April 27, 1979, granted a variance to OAR 340-61-040(2)(c) to allow open burning of garbage. The variance expires July 1, 1979.



Contains
Recycled
Materials

3. Department staff has contacted Lake County and the City of Paisley to request information in support of a continued variance.
4. Lake County and the City of Paisley have requested a meeting with the Environmental Quality Commission to present their position and have been notified of the June 29, 1979 meeting.
5. Adequate evidence to support an extended variance has not been received by the Department.
6. Strict compliance at this time would result in probable closure of the disposal sites with no alternative facility or method of solid waste disposal available.

Director's Recommendation

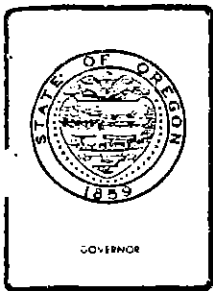
Based upon the findings in the Summation, it is recommended that the Environmental Quality Commission not grant an extension of the variance until such time as adequate justification for granting of a variance is received.



WILLIAM H. YOUNG

Robert L. Brown:dro
229-5157
6/14/79
Attachments (2)

1. Agenda Item No. J(2), 4/27/79 EQC Meeting
2. Letter from Lake County attorney



Environmental Quality Commission

POST OFFICE BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. J(2) April 27, 1979, EQC Meeting

Request by Lake County for Variance from Rules Prohibiting
Open Burning Dumps (OAR 340-61-040(2)(c))

Background

Lake County operates solid waste disposal sites at Adel, Christmas Valley, Fort Rock, Plush, Silver Lake and Summer Lake (hereafter, these sites will be referred to collectively as the Lake County rural disposal sites). The City of Paisley owns and operates a disposal site near Paisley. Except for the Silver Lake and Summer Lake sites, all county-operated sites are on land owned by the U.S. Bureau of Land Management (BLM). The Silver Lake site is owned by Lake County and the Summer Lake site is owned by the Oregon Department of Fish and Wildlife.

On November 26, 1975, the Department approved the solid waste management plan for Lake County's rural disposal sites. The plan was approved on the basis of insignificant volumes of putrescible wastes and allowed the County to control-burn the wastes with a truck-mounted propane burner. The fire was to be extinguished following incineration of the wastes and was not to be allowed to smolder. The Paisley site was not approved for such incineration. Instead, the Paisley site was required to operate as a modified landfill. Non-putrescible and combustible wastes would be disposed of separately for open burning when specifically approved by the Department. The staff felt the Paisley site served too many people and contained too much putrescible matter to allow controlled-burning as permitted at the other rural sites.

Currently, all the rural disposal sites and the Paisley site are routinely open-burned. Both the City of Paisley and Lake County have requested a variance from Department regulations prohibiting open-burning of garbage. No justification was provided with the requests other than to claim that open-burning did not create significant environmental impact.

Discussion

The environmental impact of open-burning of wastes at the Lake County rural sites is a questionable matter. Due to the remote location of the sites and the relatively small amount of garbage, few people, if any, are subjected to the odors created by burning garbage. The visual impact, however, is very noticeable. Due to the large open space of Lake County, the black smoke plumes can be seen from incredible distances. The overall impact of open-burning on air quality is probably immeasurable except for short-term, visible emissions.

Other rural Eastern Oregon counties operate their waste disposal sites without open-burning. Harney County, as an example, uses its road crews to frequently and routinely maintain its rural sites. The estimated annual cost for Harney County to maintain nine (9) rural sites is about \$5,000 - \$10,000. The cost must be estimated because the cost for this is not separated from the Road Department budget. Lake County has claimed it would cost about \$12,000 for them to operate the rural sites without burning.

Actually, Lake County cannot legally open burn on sites leased from BLM because of the Federal Resource Conservation and Recovery Act (RCRA). As a matter of practice, however, BLM has allowed the leases to continue as long as the disposal sites are regulated under DEQ permit. RCRA regulations require that all open dumps be closed or upgraded within a five-year period from date of inventory (sometime in 1979-80).

Possible Alternatives and Expected Consequences

- A. Deny the variance request and order Lake County and the City of Paisley to stop open-burning immediately.

This option, of course, would end open-burning of garbage. The staff has discussed this option with the Lake County Commissioners. The Commissioners have indicated that, should this occur, they may close the sites and leave people to their own devices for disposing of their garbage. Undoubtedly, this would result in numerous, illegal, uncontrolled dumps all over Lake County. Also, Lake County probably would need some time (a year, perhaps) to budget additional monies for operating the rural sites if they chose to.

- B. Approve the variance request for an indefinite time.

In this case, open-burning would continue. Those other counties that operate acceptable solid waste management programs may decide to review their programs and request open-burning variances for economic considerations.

C. Approve the variance until July 1, 1979.

Prior to June 1, 1979, the City of Paisley and Lake County would submit justification to the Commission for continued open burning of garbage. If the justification was insufficient, then the Commission could order an end to open-burning on July 1, 1980. This would allow the City and County one year to develop alternatives to open-burning and to budget expenses as needed.

The advantage to this option is that it requires Paisley and Lake County to provide the burden of evidence justifying open-burning. As it now stands, the Department and Commission have no real basis for considering a variance to the open-burning rule.

The disadvantage of this option is that it implies that open-burning may be justifiable in certain cases. The Department believes open-burning garbage is inappropriate and the rules prohibiting open-burning of garbage were promulgated to apply to all Oregonians, not just those who agree with the rule.

D. Approve the variance until July 1, 1980.

The Commission would order the staff to negotiate a time schedule for eliminating open-burning of all Lake County sites and for implementing an acceptable solid waste management plan by July 1, 1980.

The advantage to this approach is that it provides for a consistent, state-wide program for solid waste management.

The disadvantage is that Lake County and the City of Paisley may decide to close the sites after July 1, 1980. This would result in many uncontrolled, illegal dumps in Lake County.

Thus, strict compliance with the rules would result in the closing of the existing facilities and no alternative facility or alternative method is available. The Environmental Quality Commission may grant a variance upon making such a finding. ORS 459.225(3)(C).

Summation


1. The City of Paisley and Lake County routinely open-burn garbage at rural disposal sites in Lake County.
2. OAR 340-61-040(2)(c) specifically prohibits open-burning of garbage in Oregon.
3. The City of Paisley and Lake County have requested a variance to this regulation citing that open-burning creates no significant impact on the environment.
4. The City of Paisley and Lake County have not presented adequate evidence of special or unusual circumstances to justify a variance.
5. Strict compliance at this time would result in probable closure of the disposal sites with no alternative facility or method of solid waste disposal available.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Environmental Quality Commission grant a variance to OAR 340-61-040(2)(c) until July 1, 1979, subject to the following conditions:

The City of Paisley and Lake County be required to submit evidence to the Department to justify a variance past July 1, 1979.

Department staff shall review this evidence and return to the June Commission meeting with a recommendation regarding extension of the variance.


WILLIAM H. YOUNG

Robert L. Brown:dro
229-5157
April 11, 1979
Attachments (2)

1. Letter request from Lake County
2. Letter request from City of Paisley

April 27, 1979 EOC - Agenda Item No. 1-2

Board of Commissioners

Lake County

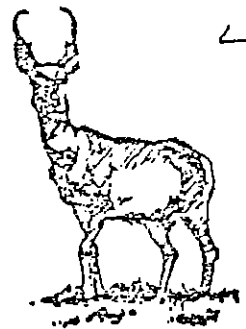
STATE OF OREGON

LAKEVIEW, OREGON 97630

GEORGE CARLON

LESLIE SHAW

LOUIS LAMB



February 8, 1979

*cc: Bob Brown - SW - Permitted
File SW - Lake Co*

TO: *R* Richard Nichols, Regional Manager, DEQ
FROM: George Carlon, Lake County Board of Commissioners
RE: Variance Request

This letter is in answer to your letter of February 6, 1979 regarding our Solid Waste Disposal Permits and our variance request.

During our meeting of January 24, 1979, we summarized our position of amending our Solid Waste Plan to our present practice of burning with a fuel starter rather than propane. We also discussed our present practice and the need to continue with our present policy.

Attached is our letter of November 1, 1978, summarizing our situation. The letter was discussed with you and Bob Brown.

Please consider this letter a request to continue with our present practice and your help in obtaining Lake County the needed variance would be appreciated.

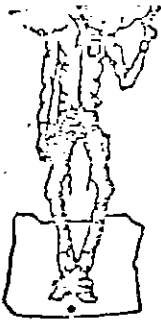
State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

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BEND DISTRICT OFFICE

RECEIVED

FEB 13 1979

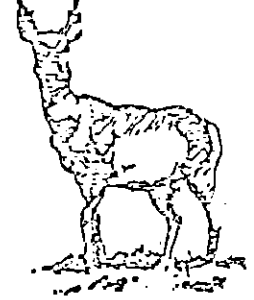


Board of Commissioners

Lake County

STATE OF OREGON

LAKEVIEW, OREGON 97630



GEORGE CARLON

LESLIE SHAW

DON FITZGERALD

TO: Department of Environmental Quality

FROM: Lake County Commissioners

RE: Solid Waste Plan Amendment

Lake County has reviewed its Solid Waste Plan, having recognized a discrepancy in the present practices, and has amended the Plan to cover our present practices.

Enclosed is a copy of our amendment to the Lake County Solid Waste Plan dated 11/1/78.

It is our intention to change the plan to the present practice of controlling incineration by the use of a flammable fuel. With the present practice, there has been no public objection and the solid waste disposal cost has been held to a minimum.

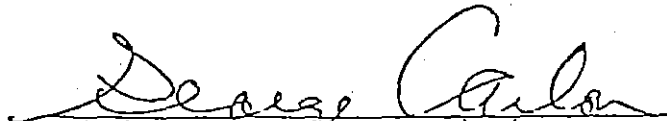
It is our contention that the present practice is the most practical for our County. The alternative of a Modified Land Fill, Plan Alternative F, Modified Landfills for Rural Sites, has been compared with Plan Alternative G, Modified Land Fills with trench incineration, and the following problems exist:

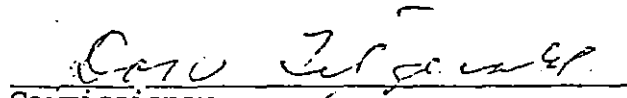
1. The time between coverages on an equipment-available basis would not be satisfactory. Lake County does not have the equipment-time available to cover at a frequency satisfactory to keep rodents, snakes and other animals away, papers from blowing, foul smells from emitting, and an unhealthy condition from existing.
2. Cost calculations were made on an alternative of covering the landfills at Christmas Valley, Summer Lake, Adel, Plush and Fort Rock every two months with a new pit at six-month intervals. Silver Lake was figured at one coverage per month and a new pit at three-month intervals and our cost, if the equipment was available, would be approximately \$33,940 per year. The Road Department schedule would prevent the availability of equipment during many times of the year. Comparing with present cost of approximately \$22,241 per year with burning with one new pit per year. Equipment is available for this frequently.
3. The factor of safety to the operator is an important criterion. The ignition of the pits with a propane torch has proven hazardous. The concept of the propane torch omits the hazard of the operator's

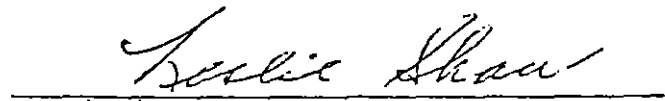
exposure to heat, gases, and other obnoxious fumes.

These are only a few of the reasons we have made the decision to amend the plan. We believe with the modification of the method of ignition in the burning of the waste in the trenches that Lake County would be served with the best alternative of solid waste disposal.

November 1, 1978


Chairman, Board of Commissioners


Commissioner


Commissioner

CITY OF PAISLEY

P. O. Box 100
PAISLEY, OREGON 97636

April 5, 1979

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

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APR 6 1979

BEND DISTRICT OFFICE RECEIVED

APR 12 1979

SOLID WASTE SECTION

DEQ Central Region
Richard J. Nichols, Regional Manager
2150 N.E. Studio Road
Bend, Oregon 97701

RE: SW - Permit #178

Dear Mr. Nichols:

In reply to your letter of February 28, 1979, The City of Paisley is financially unable to comply with the land fill program. our only sanitary means is occasional burning. Our population is only 300.

In the mid 1960's, garbage and trash was scattered all over BLM land. The City dug a pit and cleaned this land and burned the trash in the pit, and since then has kept the garbage and trash burned.

As for nuisance and health problems, it is far healthier to keep the pit clean by burning. It keeps down the flies and vermine. As for nuisance there is no one around to bother. The smoke does not drift over town nor any residence.

As stated above, burning is the only feasible means of sanitation for us. We thereby feel we are justified in requesting a variance for occasional pit burning.

Sincerely,

C. E. Young
C. E. Young, Mayor

CEY:hc

RECEIVED
APR 9 1979

Water Quality Division
Dept. of Environmental Quality



Board of Commissioners

Lake County

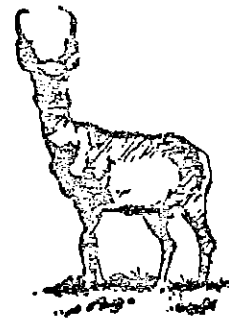
STATE OF OREGON

LAKEVIEW, OREGON 97630

GEORGE CARLON

LESLIE SHAW

DON FITZGERALD



June 7, 1979

Richard J. Nichols
Regional Manager - DEQ
2150 NE Studio Road
Bend, Oregon 97701

Dear Mr. Nichols:

George Carlon has referred to me your letter of May 7, 1979.

The Commissioners, myself and representatives of the City of Paisley met with Gil Hargreaves of your Klamath Falls office yesterday. Mr. Hargreaves was unable to provide the Commissioners with sufficient information regarding the procedures facing the County and City of Paisley in seeking a variance to DEQ's no-burn rule. He was unable to provide us with even a specific date that the Environmental Quality Commission would meet to consider the solid waste problems faced here in Lake County.

The Commissioners have requested that I contact you and Mr. Bob Brown and indicate that Lake County would like to have the opportunity to present to the EQC its position on solid waste disposal in Lake County.

Please inform me of the necessary procedures and the date, time and location of the EQC meeting.

Your cooperation in this matter will be greatly appreciated.

Sincerely,

William F. Hanlon
County Counsel

WFH:ma

-4844

RECEIVED
JUN 11 1979
SOLID WASTE SECTION

CITY OF PAISLEY

P. O. Box 100
PAISLEY, OREGON 97636

June 14, 1979

Department of Environmental Quality
Solid Waste Division
522 S.W. 5th
P.O. Box 1760
Portland, Oregon 97207

SW - Solid Waste Variance

Gentlemen:

In compliance with DEQ request to show justification for occasional open pit burning in Paisley beyond your July 1, 1979 deadline, we are submitting the following.

Before the City acquired the 80 acres for the present dump site, garbage was scattered over several miles of BLM land. The City cleaned this land, burned the garbage and has since kept the land clean by furnishing the public a place to dispose of solid waste. By dumping into the pit and keeping the garbage and trash burned has kept paper from scattering in the wind, and keeps the flies down, rats and other vermine. The smoke from the pit does not drift over town nor any residence in the area. No one is bothered by the smoke.

It is economically unfeasible for the City to land fill, as required by DEQ. Further, the City only has 80 acres of land for solid waste purposes. The land fill method would soon use up the present site and no other land is available.

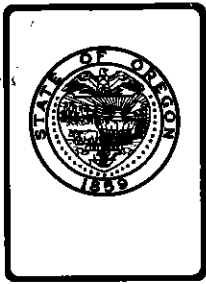
The tax payers in Paisley are burdened with an FHA obligation for sewer and water and will not accept additional tax for land fill operation. Without financial means to comply with DEQ regulations and no further means of land acquisition, the only alternative the City has is to close the dump and allow the land to become covered with garbage again creating unsightly and unsanitary conditions. We here in Paisley, surely feel this is evidence of justification for variance.

Sincerely,



C.E. Young, Mayor

RECEIVED
JUN 18 1979
SOLID WASTE SECTION



Environmental Quality Commission

POST OFFICE BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

To: Environmental Quality Commission
From: Director
Subject: Agenda Item H(2), June 29, 1979, EQC Meeting

Request for Variance Extensions from Rules Prohibiting Open
Burning Dumps, OAR 340-61-040(2)(c), for the Cities of Powers
and Myrtle Point

Background and Problem Statement

On February 24, 1978, variances were granted to the Cities of Powers and Myrtle Point to continue operation of their open burning dumps until June 30, 1979. The variances granted were extensions of earlier variances, and were to allow Coos County an opportunity to expand the capacity of the Bandon Disposal Site so that wastes could be received from Powers and Myrtle Point.

Since the last variances were granted, Coos County has proceeded to install an additional incinerator at the Bandon Disposal Site. The County is now prepared to accept wastes from the Cities of Powers and Myrtle Point, and has included this in their Solid Waste Management Plan (recently adopted).

On March 16, 1979, the City of Powers submitted a request to the Department for another extension and outlined the basis for their request (see attached). On April 6, 1979, the City of Myrtle Point submitted a similar request for a variance (see attached).

On May 21, 1979 a public informational meeting was held in Myrtle Point. Testimony from numerous citizens was received, and is summarized in Attachment 3. A similar public meeting was held in Powers on May 30. A summary of that testimony is included in Attachment 4.

ORS 459.225 provides authority for the Commission to grant variances from Solid Waste regulations, under certain conditions which will be discussed below.

Alternatives and Evaluations¹

The Department has been negotiating the closure of the dumps at Powers and Myrtle Point for several years. It has participated in the search for replacement landfills and has funded studies to identify alternatives. After

¹The alternatives and costs are summarized in Tables 1 and 2.



Contains
Recycled
Materials

much effort and delay the Department, Coos County and the Cities of Myrtle Point and Powers reached verbal agreement on a plan to close the open dumps and haul to the Bandon Disposal Site. Now that the plan is being implemented, the cities have taken a closer look at the proposal and now contend that closure of the dumps is unwarranted.

Powers - The Powers dump is located on approximately two acres of land near the city. No complaints have been received by the Department, nor have any significant environmental problems been noted during inspections beyond localized air pollution. During the May 30, 1979 public meeting, however, two people living near the dump testified they were adversely affected by the dump. They reported problems with rats, smoke from the burning, numerous fires spreading from the dump, and some debris getting into the nearby creek. With the exception of the smoke, operation of the dump could be improved to eliminate these problems. Approximately 200 of the 300 households in Powers are served by the local hauler, Alka Thornsberry. The alternatives for solid waste disposal are discussed below.

Establishing a Sanitary Landfill

The current dump cannot be upgraded to a sanitary landfill. Successful operation of a sanitary landfill is very difficult in the wet, mountainous area around Powers. Several sites have been investigated around Powers, but none have been acceptable. If a suitable site could be found, the initial investment would be considerable.

Transfer Station

The operation of a transfer station would be of comparable cost to hauling to Bandon, but would also require an initial expense of about \$20,000. The City has not expressed interest in this option unless the County would pay for the transfer station.

Hauling Garbage to Bandon

The Bandon Disposal Site, operated by Coos County, is the only established site in Coos County capable of being operated in an environmentally acceptable manner. A new site for the county's incinerators is proposed to be established at a distance of 48 miles from Powers, pending DEQ approval. The road from Powers to Highway 42 is not good, with many curves and rough stretches.

The local franchised hauler has estimated the cost of hauling garbage the extra distance to Bandon to be about \$5.75/household/month. The current charge for collecting and taking garbage to the Powers dump is \$3.50/month. The initial monthly charge for hauling to Bandon has not been set, but would probably be in the range of \$7.50 - \$10.00/household. Costs would go up if fuel prices increase, and if the County establishes a fee for dumping at Bandon (as expected).

¹\$1.50/mile to operate truck (fuel, depreciation, insurance, driver time, upkeep), and 12 trips/month.

Maintaining Open Burning Dump

This option is by far the cheapest, and is favored by the City and by almost all the city residents. The reasons cited during the public meeting were:

1. The cost of hauling garbage to Bandon (96 miles round trip) is prohibitive, and likely to get higher as fuel costs increase.
2. Powers is not a prosperous community, with 50% of the residents retired and many on fixed incomes.
3. The tax rate in Powers is already the highest in the County.
4. The dump is remotely located, and causing only localized nuisance conditions.

The disadvantages of continuing the operation of the open burning dump are:

1. Nuisance conditions such as smoke and litter and safety and public health hazards including fires, rats, and insects, have been reported by several neighbors living near the dump. These problems are typical of open burning dumps.
2. Under the Department's agreement with EPA to enforce criteria developed pursuant to the Federal Resource Conservation and Recovery Act (RCRA), the dump will almost certainly have to be phased out in five to six years at the most.

Coos County Position

The Coos County Commissioners support Powers' variance request, based on the financial hardship of closing down the Powers' dump. They have indicated they are prepared to modify the Coos County Solid Waste Management Plan to reflect continued operation of the Powers dump.

Staff Position

Under Oregon Revised Statutes (ORS) 459.225, the Commission may grant a variance to solid waste regulations only if the following conditions exist:

1. The conditions in existence are beyond the control of the applicant.
2. Strict compliance would be unreasonable, burdensome or impractical.

3. Strict compliance would result in closure of a site with no alternate facility available.

In the Department's opinion, closing out the Powers dump would be burdensome because of the high cost to the many retired people in this community. We would therefore support a five-year variance, provided the City agrees to upgrade the operation of the current site. These improvements should include rat control, fire protection, and litter control.

Myrtle Point - The Myrtle Point landfill is located about one mile from Myrtle Point, on 12 acres of land. Whether or not there is leachate is unknown, because of the steep bank covered by blackberry bushes below the fill. Environmental problems noted at the fill are litter, safety hazards, insects, rats, and localized air pollution. Half to two-thirds of the commercial establishments and households (over 800) are served by the local hauler, Elvin Murray.

The alternatives available to Myrtle Point are essentially the same as for Powers, and are discussed briefly below and are summarized in Table 2.

Establishing a New Landfill Near Myrtle Point

Costs for establishing and operating a sanitary landfill will be somewhat greater than for Powers. More land would be required, and more operator time needed. No acceptable sites have been found near Myrtle Point. At least \$1/month increase in fees would be required, plus an initial expense of about \$75,000 - \$100,000. The current dump site cannot be upgraded to a sanitary landfill. No acceptable sites have been found in the Myrtle Point area.

Transfer Station

The initial expense would be about \$20,000, the same as for Powers. An additional \$1.50/month/household would be required, which would not include costs of collecting and taking the garbage to the transfer station.

Hauling to Bandon

The proposed county disposal site, if approved, will be about 18 miles from Myrtle Point. This compares with about a 17-mile haul for Coquille residents currently. The increased monthly fee will be somewhere around \$1 per household.

Maintaining Open Burning Dump

This is the cheapest option, and for this reason is favored by the City and most of the residents. Most of those testifying felt that no serious environmental damage was occurring because of their dump, and therefore it should not have to be shut down.

Coos County Commission

The Coos County Commissioners support a limited extension to Myrtle Point's variance. They are planning to place the new incinerators on Beaver Hill, which will be seven miles closer to Myrtle Point than the current incinerators. They would prefer to wait until the new site is operational (expected within 1 year) before accepting Myrtle Point's garbage.

Staff Position

In the Department's opinion, only a short term variance for Myrtle Point could be granted under the conditions set forth in ORS 459.225. The monthly fee increase does not appear unreasonable, merely somewhat burdensome.

A short term variance is recommended, however, to allow the County an opportunity to establish their new site. In addition, the franchised hauler has indicated he will need to purchase a new truck if he must haul to the Bandon site. The extension will allow Mr. Murray time to buy the truck.

Summation

1. Myrtle Point and Powers are currently operating open burning dumps under EQC variances granted February 24, 1978. The variances were granted to allow the cities and Coos County time to expand the processing capacity at Bandon and to establish franchising ordinances. Both of these tasks have been completed.
2. Coos County has adopted a Solid Waste Management Plan which identifies Bandon as the disposal site for wastes from Myrtle Point and Powers. The cities verbally agreed to this proposal prior to adoption of the plan. Sufficient capacity now exists for the County to receive wastes from these cities. At least one franchised hauler has expressed interest in collecting garbage from both cities.
3. The Bandon disposal site is the only one currently in operation in Coos County that can be operated in an environmentally acceptable manner.
4. Neither dump can be upgraded to a sanitary landfill. Current deficiencies include localized air pollution, rat harborage, minor leachate discharge, insect vectors and safety hazards.
5. Other alternatives, such as a transfer station or a new landfill, would be more expensive than hauling to Bandon.
6. The City of Powers has requested an indefinite extension of their variance, citing minimal pollution problems, economic hardship (rates will probably go up to at least \$7.50/month in a city populated by many retired people), and the fuel shortage.

7. The City of Myrtle Point has requested an indefinite extension of its variance, citing the minimal pollution problems and cost (rates will probably go to \$5.50 - \$6.50/month.
8. Coos County supports the Powers variance request, but would only support a limited extension to Myrtle Point's variance until the new county site can be established.
9. In the Department's opinion, the variance for Powers should be granted as the long distance from the nearest acceptable landfill and the large number of retired residents on low, fixed incomes make closing the Powers dump burdensome and impractical.
10. Operation of the Powers dump can be improved by better rat, fire, and litter control. This will eliminate many of the environmental problems discussed at the May 30, 1979 public meeting in Powers.
11. In the Department's opinion, Myrtle Point's request only minimally meets the statutory requirement of ORS 459.225. Therefore, only a temporary variance should be issued to allow the County time to establish the new site and to allow the local hauler time to purchase the necessary truck. Since the distance to the new Beaver Hill site is only 18 miles, and the likely fee increase is comparable to other fees in Oregon, a longer variance cannot be granted on the basis that closing the Myrtle Point dump is burdensome or impractical.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that:

Powers

1. The City of Powers be granted an extension of its variance from OAR 340-61-040(2)(c) until June 30, 1984. Said variance to be subject to earlier review by the Commission if in the opinion of the Department there has been a substantial change in circumstances prior to that date.
2. The City of Powers be required to submit, by August 1, 1979, a proposed plan for DEQ review and approval that provides for improving access control, rodent and insect control, litter control and fire protection by September 30, 1979.

Myrtle Point

The City of Myrtle Point be granted an extension of its variance from OAR 340-61-040(2)(c) until June 30, 1980.

Bill

WILLIAM H. YOUNG

Richard P. Reiter:dro
672-8204
6/12/79
Attachments (4)

1. Letter from Lillian Ross, City of Powers
2. Letter from Ken Cerotsky, City of Myrtle Point
3. Summary of testimony from public informational meeting in Myrtle Point, May 21, 1979.
4. Summary of testimony from public informational meeting in Powers, May 30, 1979.

Table 1
City of Powers
Solid Waste Disposal Options

<u>Alternative</u>	<u>Monthly Cost¹ (per household)</u>	<u>Initial Capital Expense</u>	<u>Other Factors</u>
Maintain open burning dump	~\$5.50	None	Site operation could be improved to minimize nuisance conditions to neighbors.
Transfer station	\$3 to operate and transport garbage from station ² + \$5.50 to collect garbage from homes = \$8.50.	\$20,000 ²	---
Establish sanitary landfill	\$1 to operate site ³ + \$5.50 to collect garbage from homes = \$6.50.	\$45,000 ³	No acceptable site has been found.
Haul to Bandon	Not established at at this time, but probably \$7.50 - \$10.	Collector recently purchased an 8-yard compactor in order to retain City franchise.	96 miles round trip. Only current site in Coos County capable of being operated in environmentally acceptable manner.

¹Typical monthly charges range from \$3.50 - \$5 in Oregon. The current monthly rate in Powers is \$3.50.

²Based on average costs for other Oregon transfer stations.

³Based on cost of newly established Condon landfill (Eastern Oregon city of comparable size).

Table 2

City of Myrtle Point
Solid Waste Disposal Options

<u>Alternative</u>	<u>Monthly Cost¹ (per household)</u>	<u>Initial Capital Expense</u>	<u>Other Factors</u>
Maintain open burning dump	Not established, but probably in the range of \$5 - \$6.	None	---
Transfer station	\$1.50 to operate and transport garbage from station ² + \$5.50 to collect garbage from homes = \$7.	\$20,000 ²	---
Establish sanitary landfill	\$1 to operate site ³ + \$5.50 to collect garbage from homes = \$6.50.	\$75,000 - \$100,000 ³	No acceptable site has been found.
Haul to Bandon	~\$6.50	Franchise collector will need to purchase new collection vehicle.	36 mile round trip. Bandon site can be operated in an environmentally acceptable manner.

¹ Typical monthly charges range from \$3.50 to \$5 in Oregon. The current monthly fee in Myrtle Point is \$4.50.

² Based on average costs for other Oregon transfer stations.

³ Estimates based on \$2,000/acre, costs extrapolated from newly established Condon Landfill (Eastern Oregon).

CIT. OF MYRTLE POINT

Handwritten signature/initials

IN THE HEART OF THE MYRTLEWOODS
424 5th STREET
MYRTLE POINT, OREGON 97458

*prof - Solid Waste
Division*

April 6, 1979

Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
APR 17 1979

RE: S.W. - Coos County
Myrtle Point Disposal Site

COOS BAY BRANCH OFFICE

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
APR 9 1979

D.E.Q.
1937 Havard Blvd.
Roseburg, Or. 97470

SOUTHWEST REGIONAL OFFICE

Dear Sir:

As required by our solid waste permit, the City of Myrtle Point is requesting an extension to the variance granted for its solid waste disposal site.

The City's solid waste site is located in a county which has few, acceptable sanitary landfill sites. The soils are mostly clay, and there is little flat land with existing economical cover material. These conditions have required that the City ask for a variance from strict sanitary landfill requirements, to include the burning of the solid waste.

Reduction of solid waste by fire had been an acceptable procedure until air pollution from the large amount of garbage in urban areas became a visual blight and a health hazard. In our area neither condition exists. We are a rural area, with a City population of 3,000. The solid waste disposal site is located several miles above town, in the foothills. The site is burned every night, so there is smoke for only a short period in the evening. This is quickly dissipated by the southerly winds. This air pollution is much less than the smoke from the hundreds of thousands of grass seed areas burned every year or the smoke from the thousands of acres of timber slash burned each year.

As previously stated, there are few alternative disposal sites in the county. The county owned and managed site at Bandon is approximately 30 miles from Myrtle Point. Given the long haul distance and the few number of assured customers, it would be very costly for the local refuse collector to dispose of the solid waste at Bandon. This is an important point. The high cost of petroleum will probably require the purchase of large economical garbage trucks. These trucks are very expensive, especially when compared to the trucks presently in use by the collector.

The collector is faced with large capitalization costs. These will be passed back to the user via collection fees. However, with few

assured customers, the fees will be very high, perhaps so high as to discourage new customers. Both of these serious potential problems, waste of energy and high collection fees, could be avoided by continued use of the present site.

The City of Myrtle Point understands that there is a need for environmental controls on certain businesses, both public and private. However, we feel that the environmental condition that our waste disposal site operates under are not serious enough to warrant the drastic alternative suggested. In fact, the extra energy costs and wide spread promiscuous dumping which is sure to happen, may be more environmentally harmful than the existing waste site, particularly since no environmental data has ever been presented on our site.

We would like the Commission to consider our request and grant a long term variance for our solid waste disposal site.

Sincerely,



Ken Cerotsky
City Administrator

KC/lb

RECEIVED
APR 17 1979

City of Powers

P. O. Box 250
Powers, Oregon 97466

March 16, 1979

RECORDED
MAR 20 1979

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID WASTE SECTION

RECEIVED
MAR 21 1979

GOOS BAY BRANCH OFFICE

Department of Environmental Quality
1234 S.W. Morrison Street
Portland, Oregon 97205

SOUTHWEST REGIONAL OFFICE

SW-Coos

Dear Sirs: Re: City of Powers Solid waste site.

We the people of Powers, with a population of 975 persons, come to you again for an extension to our Solid Waste site here in Powers which is to be closed down on June 30, 1979.

We realize that the Bandon site is open to our use, the location of this is 45 miles one way from Powers, the first 20 miles over 2-242 is very rough in spots and very crooked as you well know if you have ever been to Powers. The present franchise holder Mr Thonsberry has stated that if would be forced to take the garbage to the Bandon site that he would have to purchase a new 20 yard compactor truck, which would cost him \$42,000.00 as the present truck he has would be lucky to make it to Gaylord as it is a very old truck, and has difficulty keeping it running here in Powers. He stated that the cost of a new truck would take him too long to pay for at the amount of approxamately 200 customers he has, and any profits that he would hope to make would go for interest let alone the payments of this truck, so would be prohibitive for him to even consider it.

Mr Murry, another interested party, who has the Myrtle Point franchise, stated that he would take the Powers area. He would have to have \$5.50 per can which is \$2.00 more than the present rate and 50% of the people in Powers are retired and are limited income and would put an extra burden on these people, who are barely existiting now.

We Also must consider that we are reminded many times a day that we should conserve on fuel, and forcing the City into a 90 mile hall to dispose of our waste is going against another rule set up for us to abide by.

We have not had any complaints on this site except for the party who purchased property right next to the site and, moved in a Mobil Home, and they were well aware of the disposal site being there when they purchased the property. We have had no notifications that test have been made to show that it is a hazzard to peoples health here in the Powers Area.

For many years we have been searching for a site for a land fill, but has never been accepted for the few sites that we have come up with, by your Commission, and now it is prohibitive for a land fill with the high cost of property and the equipment we would have to purchase to meet with the requirements, to operate it.

City of Powers

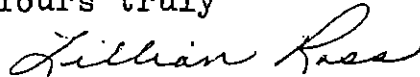
P. O. Box 250
Powers, Oregon 97466

We have been notified that, as of July 1, 1979 the County is going to charge each City who uses the Bandon site, and we do not know how much they are going to charge the cities, and this will also put an extra burden on our people.

The City operates on a tax base of \$43,500. per year, and I know that you are going to say that this is not your problem, but we have went to the people for the past 4 years to get a new tax base so we would have more money to work with, but the people has voted it down by a large margin. We realize that people are sick and tired of taxes and Powers has the highest rate in Coos County. This is due to the high cost of operating of our schools here in Powers, not for the operations of the City. As you can readily see we are operating on a very limited amount of money, we have no frills. We are operating in the black and we are not in debt, if we were I do not know what we would pay the debt with,

We do hope that you will see it within your scope to grant the City of Powers another extension, and maybe we will be able to get this thing resolved. We would accept any funds that the State would grant us , so that we could comply with the laws that the State has forced upon us. We truly feel that we have a legitimate request. Thank you for your consideration.

Yours truly



Lillian Ross
City Recorder
City of Powers
P.O. Box 250
Powers, Oregon 97466

cc. Senator Jason Boe
Senator Ripper
Rep. Bill Grannell
Rep. Doc. Stevenson



STATE OF OREGON

INTEROFFICE MEMO

Southwest Region
DEPT.

672-8204
TELEPHONE

TO: Environmental Quality Commission

DATE: June 5, 1979

FROM: Richard Reiter, Hearings Officer

SUBJECT: Hearing Report on May 21, 1979 Public Information Meeting regarding
"Request for Variance Extensions from Solid Waste Regulations for
the Cities of Powers and Myrtle Point Solid Waste Disposal Sites".

SUMMARY OF PROCEDURE

Pursuant to public notice, a public information meeting was convened in the Myrtle Point City Hall at 8:00 P.M. on May 21, 1979. The purpose was to receive testimony regarding the staff's recommendation to deny the City's request for a variance extension from the Solid Waste Regulations.

SUMMARY OF TESTIMONY

Some sixty-one (61) citizens signed an attendance roster. Of those 61, the following fourteen (14) offered verbal testimony:

F.C. Meldrun, City Attorney
Ervin Wilberger, Former Mayor
Art Ratcliffe, citizen
A.E. Kirkpatrick, citizen
W.M. Myers, Sr., Fire Dept.
J.R. Howe, citizen
Richard Capehart, citizen
Ralph Hermes, citizen
Ed Van Vlack, citizen
Fran Capehart, citizen
Tony Boom, citizen
Martha McCuskey, citizen
C.S. Lehmanowsky, citizen
Wilma Wadsworth, citizen

In addition, written testimony was received from the following individuals:

*F.C. Meldrun, City Attorney
Laura Isenhardt, Publisher, Myrtle Point Herald
Bob & Donna Breitzkreutz, citizens
*Martha McCuskey, citizen
Janet DeSoto, citizen

* offered both verbal and written testimony.

The following pertinent testimony was offered:

Unless and until the citizens of Myrtle Point area start complaining, open burning dump should not be closed just to satisfy state regulations (DeSoto, Ratcliffe, Kirkpatrick, Myers, Hermes).

Operation as it is now conducted at the Myrtle Point dump site causes very little, if any, adverse impact on the environment by way of air, water or visual pollution (Meldrun, Wilberger, Kirkpatrick, Van Vlack).

Anticipate increase in promiscuous dumping of trash and garbage along the numerous isolated roadways in rural areas and an increase in backyard burning of materials now hauled to dump (Meldrun, McCuskey, Breitzkreutz, Isenhardt, R. Capehart, F. Capehart).

Can't afford estimated increase in cost to haul to Bandon (DeSoto, McCuskey, Wilberger, F. Capehart, Lehmanowsky).

Appears to be no definite assurance that any reasonable alternatives (including Bandon Landfill) are immediately available to the City of Myrtle Point (Meldrun, Kirkpatrick, Howe).

Since the State has created the mandate requiring phaseout of Myrtle Point's dump, state should come up with solution and many to implement (Kirkpatrick, Howe).

Have lived near site and never been bothered by it (McCuskey, Ratcliffe).

Less than two (2) acres of land have been utilized to dispose of Myrtle Point's garbage since 1973! (Meldrun).

Coos County Rodent Control periodically sets poison bait around dump to control rat population (Kirkpatrick).

Over the years a comprehensive and efficient maintenance program for the dump has been conducted so that no dangerous or objectionable conditions have been allowed to exist (Meldrun).

Far more pollution occurs from slash and field burning than from Myrtle Point's open burning dump (Boom).

Concerned about increase in fuel usage if people have to haul to Bandon (R. Capehart).

Dump provides a positive contribution to community in terms of providing for an exchange of useable, salvageable materials (Hermes).

Summary of Testimony

Public meeting in Powers City Hall to discuss
Closing down Powers open burning dump

May 30, 1979

Noble Adamek - small towns were not considered when the rule outlawing open burning was adopted. No harm is being done by the dump, no air pollution problem. Hauling to Bandon will double the cost, and already Powers has the highest tax rate in the county. Wants the dump kept open.

Mayor Jim McCulloch - would like a federal grant to set up electricity generating plant which would run on garbage and slash. Slash burning causes an air pollution problem. (Comment from Red Clark, Coos County roadmaster - technology for low pressure steam generator is still experimental. From his review of literature, he feels proven technology is at least a year away). Mayor McCulloch favors extending use of the open burning dump until this technology is available.

Charles Burrus - Lives above dump. He knew dump was there when he moved in. People voted for D.E.Q., we should follow regulations (for closing open burning dumps) or repeal the law or regulation. Fires started have been a hazard, and he has had to put out 2 fires himself. Wants to build more up there, and he is opposed to the continued operation of the dump. Some debris does get in the stream, which he has seen. Cost will only increase 7¢ per day.

Jean Flood - Hauling to Bandon will result in roads being lined with garbage. Field burning much worse a problem than dump. Favors retaining dump, or establishing local sanitary landfill.

Ethel Post - Lives alone, generates very little garbage. Doesn't want to have to pay increased cost.

Everett McAdams - 66% raise in garbage is way above President Carter's 7% guidelines. Many senior citizens in Powers who can't afford the raise. Doesn't think rats are a health hazard. Low pressure steam turbine is proven technology, used by sawmill in Empire in 1930's, favors this for Powers. Dump never clouds up town with smoke, but Forest Service burning slash often fills entire valley with smoke. Higher prices on garbage collection will result in more dumping of garbage along the road.

R.C. Goldizen - Slash burning much more serious air pollution problem than dump. Rats can be controlled by poison. 50% of residents are retired, some trying to live on \$250. They don't generate a lot of garbage. Income in town is low. Costs quoted have been \$7.50 - 10.00, could go higher. Closing of dump is arbitrary, imposed by big city types.

Most residents moved to Powers to get away from big cities. Wants to retain the dump.

Jim Gillilan - Wants to build another dump in Powers. Makes more sense than hauling to Bandon, with the high cost of fuel.

Frances McKenzie - Fuel allocation in Powers has been cut by 1/3, will be getting worse. New garbage truck will cost at least \$1.00/mile to run, will be more as gas prices rise. If state passes regulations, should be prepared to furnish money to comply. Thinks within a year, costs will be \$10.00/month.

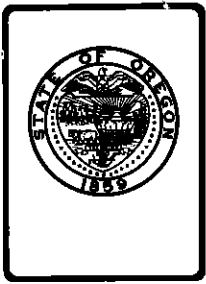
Lillian Ross, City Recorder. City has never received report on air pollution readings by state. (Comment from Rich Reiter - DEQ has never measured air around dump).

Don Johnson - Lives close to dump, knew it was there when he moved in. Smoke is definitely a problem. He was told by City that dump would be phased out within a few years. Rats are a serious problem - get in his barn, come from dump. He sees them scatter as he drives up. There is a serious fire problem - he has put out at least a dozen fires. Shooting is also a problem, people are probably shooting at rats. As He gets ricochet bullets near his house regularly, which is a hazard to his two small sons, wife, and himself. Definitely wants dump closed.

Linda Fry - In addition to burden on retired people, families can't afford higher costs. Tax money should be spent on City upkeep and schools, not garbage. Wants to keep garbage in Powers.

Don Fluerborn - With Forest Service. Worked in Tillamook area - when that dump was closed, people hauled garbage into woods. He was very impressed with cleanliness of Powers. When costs go up and dump closed, there will be an increase in dumping in forests.

Jack Inhofe - Re-cycling should be emphasized. Something should be done about current dump to avoid annoyance to neighbors. Wants to have a local option, feels county should have been more helpful.



Environmental Quality Commission

POST OFFICE BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

To: Environmental Quality Commission
From: Director
Subject: Agenda Item H(3), June 29, 1979, EQC Meeting

Request for an Extension of Variances from Rules Prohibiting
Open Burning Dumps, OAR 340-61-040(2)(c), for Disposal
Sites in Lincoln County

Background and Problem Statement

Lincoln County has again requested a 12-month continuation of its current variance to allow open burning of putrescible wastes (garbage) at the privately operated Waldport and North Lincoln (near Lincoln City) disposal sites. OAR 340-61-040(2)(c) prohibits open burning of putrescible solid wastes.

On September 16, 1975, the Commission granted a variance to allow open burning of garbage at the two sites. The variance was granted with the understanding that the County was attempting to implement a centralized processing system with resource recovery.

On September 23, 1977, the Commission extended the variance. A \$600,000 bond measure for the resource recovery program had been approved by the voters and a solid waste service district formed; however, the County had decided to attempt to arrange the transfer of its solid waste to Benton County. The variance was extended until July 1, 1978 to allow time to implement the transfer program.

The issue of solid waste transfer to Benton County had still not been resolved by June 1978, so the Commission, at its June 30, 1978 meeting, granted another 180-day extension with the provision that a progress report be submitted and, if found acceptable, the variance would be extended for an additional 180 days.

On November 22, 1978, Lincoln County applied to DEQ for a planning grant to find a new landfill within the County after concluding that the Benton County waste transfer proposal was dead. The State Emergency Board authorized the \$38,900 grant in December 1978. On December 15, 1978, the EQC granted the additional 180-day extension of Lincoln County's variance.

In March 1979, Lincoln County contracted with R. A. Wright Engineering to locate, analyze and prepare preliminary engineering plans for a new disposal



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site. That study is to be completed this fall and will also include discussion of possible methods to transfer wastes from the north and south ends of the County to the new landfill. Once the study is completed, Lincoln County must decide whether to implement the plan, gain control of the landfill and, if needed, the transfer station sites, implement the transfer system,¹ complete final design of the landfill, and construct the landfill.

ORS 459.225 authorizes the Commission to issue variances to the solid waste rules. Section 3 states:

"The Commission shall grant a variance or conditional permit only if:

- (a) Conditions exist that are beyond the control of the applicant.
- (b) Special considerations exist that render strict compliance unreasonable, burdensome or impractical.
- (c) Strict compliance would result in substantial curtailment or closing of a disposal site and no alternative facility or alternative method of solid waste management is available."

Alternatives and Evaluations

The following alternatives are available to the Commission in reaching a decision on this variance application:

1. Approve extension of the variance for either or both sites.
2. Approve extension of the variance with conditions specific to each site.
3. Deny the variance for either or both sites.

In evaluating these alternatives, the Commission may want to consider the following information:

1. Lincoln County is pursuing what appears to be a practical solution to their solid waste disposal problem. The study phase is underway with a predictable completion date (Fall 1979). After that, the decision making and implementation phase

¹"Transfer system" referred to throughout this report means any system of transporting waste from one area to another. The actual method of transfer must be determined by the County and could range from collectors and public direct hauling, to temporarily placed drop boxes, to fully manned transfer stations, or any other transportation scheme. It could be publically or privately owned and operated.

is entirely dependent on the action of Lincoln County. The County estimates the total time required until implementation to be one year. During the interim, solid wastes should be handled in the most environmentally acceptable manner at the existing sites, without imposing unreasonable costs.

2. The only non-burning landfill in the County (Agate Beach site) is nearing completion of its first lift. They plan to construct a second lift, which will provide better final grades and drainage control. With the current volume of waste (Newport and vicinity), it is questionable if the second lift can be completed by the time that the new landfill is estimated to be available. The second lift would be completed sooner if additional wastes were diverted to this site.
3. Some sort of transfer system will ultimately be needed to get waste from the north and south ends of the County to the new landfill. Rapid implementation of the transfer system would allow additional wastes to be taken to the Agate Beach site while it is being completed, and the system would be in place when the new landfill opened. Both of the most promising potential new landfill sites are located within one or two miles of the existing Agate Beach site.
4. The Waldport site has adequate area and cover material to operate as a modified landfill until the new landfill is open. However, the owner claims that the existing equipment (a cable-lift cat) is inadequate to dig and move the on-site soil. He feels it would need to be replaced if the site was converted to a modified landfill. The cost of replacing the equipment, while within the control of the operator, would be unreasonable if the site is only going to be open for a 12-month period. The owner has indicated a willingness to consider investing in adequate equipment if the site could remain open indefinitely as a modified landfill.
5. There is very little available cover material or useable area at the North Lincoln site. These factors are beyond the control of the operator. The cost of importing cover material would be unreasonable and would result in closure of the site with no other alternative (i.e., transfer system) available.

Summation

1. Lincoln County is in the process of identifying a new regional landfill site. Following completion of this study in the fall of 1979, the County plans to construct a new County landfill. Some method of transferring waste to the landfill from the north and south ends of the County will be necessary.
2. The new landfill will not be constructed for at least one year.
3. Agate Beach landfill could accept additional waste from the north and south ends of the County for a limited period of time in order to reach final grade on the second lift.
4. As soon as the transfer system is implemented, all solid waste except demolition waste should be transferred to either the Agate Beach site (until fall) or the new landfill and both the Waldport and North Lincoln sites be closed or converted to demolition sites.
5. Lincoln County should immediately begin seriously considering transfer system options, operation and financing. Their consultant's report this fall should outline several potential alternatives. The County should get itself to a point where a decision on this issue can be made rapidly after receiving the study results and that decision implemented without delay.
6. Lack of cover material and useable area at the North Lincoln site is beyond the control of the operator. The cost of importing cover material would be unreasonable and would result in closure of the site with no other alternative available.
7. The Waldport site could be converted to a modified landfill, however, the cost of obtaining adequate equipment is unreasonable if the site is to remain open only until the transfer system is implemented (estimated one year).

Director's Recommendation

Based upon the findings in the Summation, it is recommended that:

1. Lincoln County submit a plan and time schedule for implementing a transfer system and the new landfill to the Department by November 1, 1979.

This plan must also address the question of whether the Waldport site will remain open as a modified landfill or whether waste will be transferred to the new landfill.

2. Lincoln County submit progress reports on implementation of the transfer system and new landfill to the Department on February 1, 1980 and May 1, 1980.
3. The open burning variance for the Waldport site be extended until the transfer system has been implemented, but not later than July 1, 1980, unless the transfer system plan referred to in No. 1 above recommends keeping the Waldport site open indefinitely as a modified landfill. In that case, the open burning variance should terminate on April 1, 1980 and the site be converted to a modified landfill.
4. The open burning variance for the North Lincoln disposal site be extended until the transfer system has been implemented, but not later than July 1, 1980.



WILLIAM H. YOUNG

Joseph F. Schultz:drc
229-6237
June 15, 1979

STATEMENT FOR W. H. YOUNG TO PRESENT TO THE COMMISSION:

AGENDA ITEM H(4), June 29, 1979 EQC Meeting

Request for variance from the Volatile Organic
Compounds Rule OAR 340-22-110 for Clarence Stark

This is a variance request from the Volatile Organic Compounds rule which requires installation of vapor recovery equipment on certain gasoline storage tanks.

The gentleman owns property which was formerly a service station, but which is now used for a used car sales lot. The lease provides for limited use of the gasoline storage tanks and pumps by the used car sales lot operator. The owner is going to remove all gasoline facilities when the lease expires on September 1, 1981. The vapor control equipment is required by April 1, 1981. A variance for this five month period is requested.



Environmental Quality Commission

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. H(4), June 29, 1979, EQC Meeting

Request for Variance from the Volatile Organic Compounds Rule
OAR 340-22-110 for Clarence Stark.

Mr. Stark is the owner and lessor of an automobile sales lot located at 4 S.E. Grand Avenue, Portland, Oregon. The lot uses gasoline storage tanks installed for a service station previously located on the property. The rule (OAR 340-22-110) requires installation of gasoline vapor control equipment to cause the vapors displaced during the filling of a gasoline storage tank to be returned to and contained within the delivery tank-truck, the vapors are finally condensed back into gasoline at the distribution terminal. The rule requires compliance by April 1, 1981.

When the property was converted to an automobile sales lot, three of the gasoline pumps were retained along with one 10,000 gallon and two 8,000 gallon tanks. The lease restricts use of the gasoline facilities to automobile sales lot service only.

The lease entered into on September 1, 1978 runs for two years with an option to renew for another year. The lease, therefore, expires on September 1, 1981. The control equipment must be installed by April 1, 1981. This results in a five months overlap. The lease also requires that the lessor makes capital improvements.

The use of the gasoline pumps was desired by the lessee. The lessee pumps from 300 to 500 gallons per month.



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After the expiration of the lease term, the lessor, while retaining the property as an automobile sales lot, plans to remove the tanks and pumps and to level off the area where the pumps are now located.

The lessor requests that a variance be granted from OAR 340-22-110 for the period April 1, 1981 to September 1, 1981 from the installation of gasoline vapor control equipment pursuant to ORS 468.345 (b) "Special circumstances render strict compliance unreasonable burdensome or impractical due to special physical conditions or cause."

Alternatives and Evaluation

The lessor could install the approximately \$700 worth of equipment in order to abide by the lease and comply with the rule.

The lessor could break the lease by removing the gasoline storage tanks and be liable for that action.

The lessor has requested a variance from the rule for the reason that strict compliance is unreasonable due to having to make a capital improvement on a minor facility 5 months before its scheduled removal.

Summation

1. The lease between Mr. Stark and the automobile sales lot operator provides for retaining one set of gasoline pumps from the previous service station use of the property, for use by the lessee.
2. The gasoline facilities are used for the automobile sales lot business and not for sales to the public.
3. The Volatile Organic Compounds Rule requires the installation of vapor control equipment in order to fill the gasoline storage tanks the last 5 months of the lease--June 1, 1981 to September 1, 1981.
4. The gasoline facilities will be removed when the lease expires on September 1, 1981.
5. The lessor is required to make an approximate \$700 capital improvement to provide lease conditions for a 5 month period.
6. Since the tanks will be filled no more than once or twice during this 5-month period, the impact of non-control on air quality is considered minor.

Director's Recommendation

Based on the findings in the Summation, it is recommended that a variance be granted to Mr. Stark from April 1, 1981 to September 1, 1981 from the installation of gasoline vapor control equipment required by OAR 340-22-110 in accordance with ORS 468.345 (b) "Special circumstances render strict compliance unreasonable, burdensome or impractical due to special physical conditions or cause."

RPotts:bm
229-6093
May 24, 1979
Attachment

Bill

WILLIAM H. YOUNG

BEFORE THE ENVIRONMENTAL QUALITY
COMMISSION OF THE
STATE OF OREGON

Application of Clarence Stark

Petition for Variance
Rule 340-22-110

1. Petitioner requests a variance from O.A.R. Chapter 340, Section 22-110. O.A.R. Chapter 340, Section 22-110 so far as pertinent provides:

"(1) (a) A person shall not transfer or permit the transfer of gasoline from any tank truck or trailer into any stationary storage container which has a capacity of more than 400 gallons unless such container is equipped with a permanent submerged fill pipe and unless 90 percent by weight of the gasoline vapors displaced during the filling of the stationary storage container are prevented from being released to the atmosphere....

(3) The owner or operator of any existing stationary storage container subject to 340-22-110 (1) (a) shall comply with the provisions of this Rule by April 1, 1981."

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
R E C E I V E
APR 30 1979

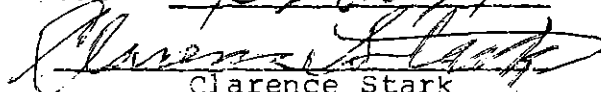
AIR QUALITY CONTROL

2. The petitioner is the lessor of an automobile sales lot located at 4 S.E. Grand Avenue, Portland, Oregon. Three gasoline storage tanks (two 8000 gallon tanks, one 10,000 gallon tank) previously installed for service station use are located on the lot. In converting to an automobile sales lot, 6 of the 9 dispensers were removed. The lease obligates the lessor to allow the use of the three tanks with the remaining dispensers for the limited use of the automobile sales lot, only. No sales are made to the public. The lease entered into on September 1, 1978 runs for two years with an option to renew for another year. After the expiration of the lease term, the lessor while retaining the property as an automobile sales lot plans to remove the tanks and dispensers and to level off the area where the dispensers are now located.

3. For the reason that requiring strict compliance would be unreasonable, burdensome and impractical considering the current limited use and proposed plans, the petitioner requests that a variance be granted.

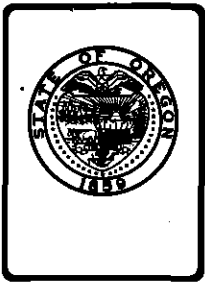
Dated

4-26-79



Clarence Stark

Petitioner



Environmental Quality Commission

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Hearings Section

Subject: Agenda Item No. I, June 29, 1979, EQC Meeting

Motion to Dismiss Request for Commission Review
DEQ v. Mr. and Mrs. E. W. Mignot
(SW-SWR-76-228)

Attached is Department's Motion to Dismiss Respondents' request for Commission review in the above matter. It is contemplated that, should they so desire, the Department and Respondents be accorded opportunity for brief oral argument in this matter.

Respectfully submitted,

Wayne Cordes
Wayne Cordes
Hearings Officer

WEC:bm

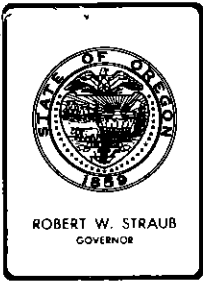
June 13, 1979

Attachments: 1. Department's motion to dismiss.
2. Proposed findings of fact, conclusions of law and final order.

cc: Van Kollias
Raymond P. Underwood, Dept. of Justice
Southwest Region
James Brown, Josephine Co. Health Department



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Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

MAILING ADDRESS: P.O. BOX 1760, PORTLAND, OREGON 97207

APR 12 1979

Environmental Quality Commission
522 S.W. 5th Avenue
P. O. Box 1760
Portland, OR 97201

Re: DEQ v Mr. & Mrs. E. W. Mignot
No. SW-SWR-76-228
Motion to Dismiss

Commissioners:

Enclosed for filing please find the Department's Motion to Dismiss
Respondent's request for Commission review and Certificate of Service.

Sincerely,

Van A. Kollias

Van A. Kollias, Supervisor
Investigation & Compliance Section

VAK:jo

Enclosure

cc: Mr. & Mrs. E. W. Mignot
Raymond P. Underwood, Department of Justice
Southwest Region
James Brown, Josephine Co. Health Department

EQC
Hearing Section

APR 12 1979

1 POINTS AND AUTHORITIES

2 Respondents began their appeal of hearing officer McSwain's proposed
3 findings of fact, conclusions of law, and final order on February 28, 1977.
4 However, Respondents did not file written exceptions and arguments nor
5 alternative findings, conclusions, and order. Hearing officer McSwain
6 requested Respondents to do so by letter of March 4, 1977. Respondents
7 still failed to make the required filing but instead proposed to settle
8 the case.

9 On March 23, 1977, Respondents and the Department jointly requested
10 an indefinite extension of time be granted Respondents to file their
11 written arguments and proposed alternative findings. The extension was
12 granted to allow parties to explore settlement.

13 A tentative settlement was reached, but was never fully implemented.
14 Negotiations reached an impasse when Respondents refused to complete the
15 removal of the remaining wastes and dismissed their attorney.

16 On January 8, 1979, the Director of the Department gave the
17 Respondents 30 days in which to file their exceptions and arguments, etc.

18 More than 30 days have passed and Respondents have neither filed
19 exceptions and argument, nor have Respondents requested additional time
20 to do so.

21 Under the rules of the Commission, Respondents in a contested case
22 must diligently prosecute their appeal by timely filing of exceptions,
23 alternative findings of fact, conclusion of law and proposed order with
24 the Commission. OAR 3430-11-132(4).

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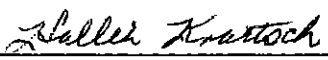
26 ///

1 The only conclusion to be drawn from Respondents' failure to either
2 file exceptions, etc., or to request yet another extension is that they
3 have abandoned their appeal. Respondents are in default for their failure
4 to diligently prosecute their appeal in compliance with the rules of the
5 Commission. There appearing no set of circumstances justifying a
6 continuance of this matter, the Commission should issue a final order
7 dismissing Respondents' request for review and adopting and affirming the
8 hearing officer's proposed findings of fact, conclusions of law and final
9 order and opinion.

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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Motion to Dismiss upon the Respondents Mr. & Mrs. E. W. Mignot, by mailing them a true and correct copy thereof. I further certify that said copy was placed in a sealed envelope addressed to the Respondents at 2660 Vine Street, Grants Pass, Oregon 97526, their last known address, and deposited in the Post Office at Portland, Oregon on the 12th day of April, 1979, and that the postage thereon was prepaid.


Hallie Kraetsch
Secretary

February 17, 1977

CERTIFIED MAIL
Return Receipt Requested

Mr. and Mrs. E. W. Mignot
c/o Ireland Equipment Co.
2660 Vine Street
Grants Pass, Oregon 97626

Mr. Robert Haskins
Assistant Attorney General
Portland Division
Department of Justice
555 State Office Building
Portland, Oregon 97201

Re: Notice of Assessment of Civil
Penalty (SW-SWR-76-228)

Dear Mr. & Mrs. Mignot and Mr. Haskins:

Enclosed are PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER in the matter captioned above. A brief opinion is included.

The parties are reminded that Oregon Administrative Rule 340-11-132(2) provides them and members of the Commission fourteen days from the date of this mailing in which to file with the Commission and serve upon the other party a request that the Commission review this proposed order.

Should review be desired, filing with the Commission may be effected by filing with the undersigned at this address.

Unless timely review is invoked, by a party or the Commission, this proposed order becomes final by provision of Oregon Administrative Rule 340-11-132(3).

Sincerely,

PWM:lb

Peter W. McSwain
Hearing Officer

cc: Joe B. Richards

1 River, some two and one-half miles south of Respondents' property.

2 3. The Rogue River and the one and one-half mile stretch of Gilbert Creek
3 immediately preceding its confluence with the Rogue are fish habitats and
4 recreational streams.

5 4. The drainage ways across Respondents' property and that portion of
6 Gilbert Creek unmentioned in FINDING numbered 3 above are waterways tributary to
7 and necessary to Gilbert Creek and the Rogue River. The quality and quantity of
8 the waters they contribute to Gilbert Creek and the Rogue River contribute to
9 the capacity of the latter waterways to function as fish habitats and recreational
10 waterways.

11 5. Respondents' property is used as a mobile home park. There is located
12 on the property a culvert which channels one of the above-mentioned drainage
13 ways under a roadway.

14 6. At the times of hearing and at all previous material times since
15 before June of 1976, Respondents' property has contained abandoned materials
16 including auto parts, appliances, furniture and tires.

17 7. Some two to six hundred tires were deposited by Respondent E. W. Mignot's
18 employees at his direction on his property within the drainage way downstream
19 and upstream of the afore-mentioned culvert in numbers and at times undisclosed
20 to the record. Most of these tires were removed from the drainage way by June 30
21 of 1976. They were stacked on the property next to the drainage way. In addition,
22 tires are deposited in various other areas on the property.

23 8. Except for the tires placed on the property by Respondent E. W. Mignot's
24 employees as mentioned above, none of the abandoned materials were placed on the
25 property by Respondents or at their direction.

26 9. Most of the materials were abandoned on Respondents' property before

1 they purchased the same in February of 1969.

2 10. Like the property to its east and to its west, Respondents' property
3 has been used frequently to deposit unwanted materials by the public at large.

4 11. Much of the material abandoned on Respondents' property is in ditches
5 at lower elevations, entangled by vegetation, partially buried, and otherwise
6 entrenched so as to render its removal difficult.

7 12. By letters of January 23, 1976, March 1, 1976, April 12, 1976, May 27,
8 1976, June 9, 1976 and August 9, 1976, Respondents were advised that allowing
9 the tires to remain upon their property constituted violation of one or more
10 laws or regulations regarding disposal of materials on land or in or near waters
11 of the State.

12 13. When abandoned tires become laden with standing water from rain or
13 other sources, they may provide an environment for mosquito larvae. Abandoned
14 tires may harbor rodents.

15 14. No impairment of the quality of the waters entering Gilbert Creek has
16 been observed to result from Respondents' deposition of tires and other materials
17 on their property.

18 15. Respondents' placement of the tires in the drainage way was an ill-
19 advised and ineffectual attempt to prevent soil erosion.

20 16. Respondents have indicated to the record no intention of removing the
21 deposited materials mentioned above other than as is indicated by removal of
22 most of the tires placed in the drainage way.

23 17. On two occasions Respondent E. W. Mignot attempted unsuccessfully to
24 communicate by telephone with personnel in the Josephine County Health Department
25 concerning letters mailed him about the materials abandoned on his property.
26 Respondent was unable to reach the persons with whom he wished to speak.

1 18. None of the tires placed on Respondents' property were placed there
2 after being treated according to plan for disposal approved by the Department.
3 Respondents have no solid waste disposal site permit for the property here in
4 issue.

5 19. By letter of June 9, 1976, Department warned Respondents of the
6 violations alleged herein and informed them that continued existence of the same
7 or similar violations could result in assessment of a civil penalty for each day
8 of violation.

9 20. The Director chose the amount of \$500 to be an appropriate civil
10 penalty after considering aggravating and mitigating factors including prior
11 violations, attempts by Respondents to correct the violation, Respondents'
12 financial ability, the gravity of the violation, the continual nature thereof,
13 the degree to which the violation was intentional, Respondents' cooperation, and
14 Department's cost in this matter.

15 21. From time to time household garbage has been observed on Respondents'
16 property. The record is silent as to whether Respondents deposited it, permitted
17 its deposition, knew of its deposition, or permitted it to remain.

18 ISSUES

19 1. Whether the deposition of tires and other materials on Respondents'
20 property violates ORS 164.775(1), ORS 164.785(1) and (2), ORS 468.720(1)(a), ORS
21 468.775 and OAR Chapter 340, Section 61-060(3).

22 2. Whether the Director properly considered mitigating and aggravating
23 factors pursuant to OAR, Section 340-12-045(1)(a) through (i) in determining the
24 precise amount of the penalty assessed.

25 CONCLUSIONS OF LAW

26 1. Respondent has not, since on or about June 27, 1976 deposited tires or

1 any other trash upon the property herein issue within 100 yards of waters of the
2 State, save and except he may have removed some tires from a drainage way to
3 higher ground. Since June 27, 1976, Respondent has not violated ORS 164.775(1).

4 2. There is no evidence on the issue of whether any of Respondents'
5 activities since on or about July 27, 1976 have constituted discarding of sub-
6 stances prohibited or impairing water quality prohibited by ORS 164.785(1). We
7 conclude they did not engage in the proscribed activities.

8 3. The Respondents' activities since on or about June 27, 1976 have not
9 been shown to have caused pollution of any waters of the State or otherwise
10 violated ORS 468.720(1)(a).

11 4. Since on or about June 27, 1976, Respondents do not appear to have
12 placed additional vehicle tires or other vehicle remnants in or near waters of
13 the State in violation of ORS 468.775.

14 5. Since on or about June 27, 1976, Respondents do not appear from the
15 record to have open dumped loose waste tires into ravines, canyons, gullies, or
16 trenches in violation of OAR Chapter 340-61-060(3).

17 6. While there was evidence that household garbage was deposited on the
18 property, we find no evidence that Respondents knew of this, permitted this, or
19 knowingly permitted it to remain on their property in violation of ORS 164.785(2).

20 7. Respondents are chargeable with knowledge of large quantities of tires
21 and general debris on their property. They failed to remove such. As a matter
22 of law this constituted a violation of ORS 164.785(2) on or about June 27, 1976.

23 8. The civil penalty in the sum of \$500 as assessed in this matter should
24 be affirmed.

25 OPINION

26 Department has proven one or more violations by Respondents occurring at

1 uncertain times prior to June 27, 1976. The record is unclear whether Respondents
2 were guilty of further unlawful deposition since on or about June 27, 1976. The
3 record discloses that on June 30, 1976 most of the tires had been removed from
4 the drainage way. The previous visit by the Department's witnesses was May 5,
5 1976. We are not permitted the inference that Respondents placed more tires on
6 their property on or about June 27, 1976 as exact counts are unavailable.
7 Moreover, the record indicates that only 3 days later the majority of tires had
8 been removed from the drainage way. We cannot infer that Respondents deposited
9 more tires on their property within what subsequently turned out to be a segment
10 of time wherein removal of tires from the drainage way had commenced. Since
11 Respondents' purpose in bringing the tires in was to prevent erosion in the
12 drainage way, his commencement of removal leaves the inference he had abandoned
13 his scheme for erosion control and would have no use for additional tires.

14 As a technical matter, we do not find that removal of tires from a drainage
15 way and placing them on higher ground (even if such higher ground were within
16 100 yards of waters of the State) would constitute a violation of ORS 164.775(1)
17 since it amounts to improvement of a situation sought to be averted by the
18 statute, and since the tires may have been stacked only to await further removal,
19 not "deposited" in the sense implied by the statute.

20 Department's pleading indicates Respondents "knowingly allowed" certain
21 materials to remain on the property. Our reading of all but one of the statutory
22 and regulatory provisions invoked by the Department leads us to conclude that,
23 in each case, the act of discarding, depositing, placing, etc. is proscribed.

24 Failure to remove the proscribed materials does not appear to be punishable
25 except as provided for polluting materials under ORS 164.785(2). As a matter of
26 law, in that evidence showed them to be havens for the breeding of mosquitos and

1 the encouragement of rodents, we conclude that tires of such quantities and in
2 such a posture as we find here, are polluting and injurious to public health.

3 The fact that removal of all of the debris on Respondents' property would
4 be a difficult task is offset by the fact that they went to substantial effort
5 to place much of it there and presumably were quite able to effectuate its
6 removal in a reasonable time. Also, it is noteworthy that Respondents accom-
7 plished little progress in abatement over a generous period of time. They
8 continued, in our view, to maintain a solid waste disposal site without a
9 permit; therefore, we find no reasons in the record to disturb the Director's
10 judgement as to the amount of the civil penalty to be imposed.

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Respectfully submitted

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this 17th day of February, 1977

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Peter W. McSwain
Peter W. McSwain
Hearing Officer

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BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE
STATE OF OREGON

Department of Environmental Quality,
Department
v.
Mr. & Mrs. E. W. Mignot,
Respondents

ORDER NO. SW-SWR-76-228

The Commission hereby orders, as proposed by the hearing officer, that Respondents, Mr. and Mrs. E. W. Mignot are severally and jointly liable to the State of Oregon in the sum of \$500 pursuant to hearing on an assessment of a civil penalty by the Director of the Department on November 4, 1976 and that the State of Oregon have judgement for and recover the same.

The Commission hereby further orders that if neither a party nor the Commission requests review of this order within 14 days of its service upon them, the order shall become a final order of the Environmental Quality Commission of the State of Oregon which shall have added to the caption the words "NOW FINAL" and, if unsatisfied for more than 10 days after becoming final, may be filed with the clerk of any county and executions may be issued upon it as provided by ORS 468.135.

Dated this 17th day of February, 19 77

Respectfully submitted,
Peter W McSwain
Peter W. McSwain
Hearing Officer

CERTIFICATE OF SERVICE

I, Peter W. McSwain, hereby certify that on February 17,
19 77, I served the foregoing PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
FINAL ORDER - No. SW-SWR-76-228 and Transmittal Letter to the Parties

on Mr. and Mrs. E.W. Mignot, Respondents, Mr. Robert Haskins, of attorneys
for Department, and Mr. Joe B. Richards, Commission Chairman

by mailing each of them a true and correct copy thereof.

I further certify that said mailings were by depositing in the United States Post Office at Portland, Oregon, each said copy, under cover, postage prepaid and correctly addressed at the last known addresses listed below.

Peter W. McSwain

Mr. and Mrs. E.W. Mignot
c/o Inland Equipment Co.
2660 Vine Street
Grant's Pass, Oregon 97526

Mr. Robert Haskins
Assistant Attorney General
Portland Division
Department of Justice
555 State Office Bldg.
Portland, Oregon 97201

Mr. Joe B. Richards, Chairman
Environmental Quality Commission
777 High Street
Eugene, Oregon 97401



Environmental Quality Commission

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

TO: Environmental Quality Commission
FROM: Director
SUBJECT: Agenda Item No. J, June 29, 1979, EQC Meeting

Report on Field Burning Research and Development Budget

This report is presented to the Environmental Quality Commission for informational purposes and to allow the Commissioners to review and comment upon the proposed field burning research and development budget for the 1979 biennium.

Background

Legislation, adopted in 1977, requires the Department of Environmental Quality (DEQ) to conduct research in the following areas:

- 1) Straw utilization and marketing;
- 2) Alternative crop development;
- 3) Air quality improvement and smoke management;
- 4) Methods of field sanitation including mobile burners and other alternatives;
- 5) Alternative weed, pest, and disease control; and,
- 6) Health effects of open field burning.

In addition to these specific requirements with regard to research activities, the Department is also required to monitor the effects of open field burning on Willamette Valley air quality and to conduct a smoke management program.

Field burning legislation also authorizes the establishment of an advisory committee, the members of which are appointed by various state officials, to aid and assist the Department in the selection and implementation of field burning related research activities. The current Advisory Committee members and their affiliations are shown below:

<u>Name</u>	<u>Affiliation</u>
Fred Burgess, Chairman	Dean, School of Engineering, OSU, Corvallis
Harold Youngberg	School of Agriculture, OSU, Corvallis
Byron Musa	Physician, Eugene
Michael Gross	Vice President, First National Bank of Oregon, Portland
Tom Hunton	Seed Grower, Junction City



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To assist in some of the more technical aspects of the research and development programs, the Advisory Committee established several subcommittees. To date, subcommittees have been organized to address the specific topics of emission testing of both open field burning and mobile field sanitizers, the health effects of open field burning, the development of alternatives and straw utilization activities, and smoke management. The number and makeup of the subcommittees has been adjusted throughout the last two years to reflect the needs of the research being conducted. In particular, the Smoke Management Subcommittee is just now being formed and at this time its membership has not been established.

Funding for research activities has been provided primarily by growers' burning fees. However, Federal and General Fund monies have also been utilized. During 1978 General Fund monies contributed to the purchase and operation of equipment as part of the Department's 1978 field burning study, while Federal funds are proposed to support approximately one-half of the continuation of that monitoring effort. Of the approximately 1.3 million dollars expended on field burning activities during the 1977-1979 biennium \$200,000 was provided by the General Fund.

The Department staff has worked closely with the subcommittees and the Advisory Committee in establishing the proposed research activities for the coming biennium. Not only have the direct research needs with regard to the search for alternatives been addressed, but also Departmental needs for additional and better information with regard to field burning's current and possible future effects on air quality. In particular, proposed research will aid the Department in dealing with proposed acreage increases. As of the writing of this staff report, the Advisory Committee on Field Burning is giving final review to the proposed budget. As a result, some additional revisions may be presented at the June 29, 1979, EQC meeting.

Proposed Research Activities

An overview of the proposed biennium research budget is presented in Attachment I while information regarding budget development as well as a greater detailing of individual projects is presented in Attachment II.

Research activities presented in these attachments may be divided into three main categories: 1) research and development on air quality and smoke management, 2) the development of alternatives including the analysis of straw utilization opportunities and the development of straw markets, and 3) the study of the health effects of open field burning.

Air Quality and Smoke Management

Research on air quality and smoke management covers programs designed to identify air quality effects of field burning and improve management techniques required to minimize them. During the next year, three major and two minor programs are proposed for implementation which will address the impacts of field burning on air quality in the Willamette Valley and also methods for minimizing that effect. The programs should also help improve our projection capability in dealing with larger acreages. The proposed programs include:

- 1) Field Burning Air Quality Surveillance and Analysis of Open Field Burning Smoke Impacts on the South Willamette Valley. This program is, in essence, a reduced version of last year's DEQ effort at monitoring and analyzing the effects of field burning smoke on air quality. Because of the short duration (one season) of the study to date, this program is proposed to collect additional data to support or modify the results of last year's monitoring effort. Costs are roughly \$100,000 per year with \$45,792 to be provided by growers' fees and \$52,380 provided by Federal grant monies.
- 2) Applicability of Rapid Ignition Techniques. A continuation and expansion of last year's plume analysis research conducted by Oregon State University is proposed. In last year's research, it was determined that certain rapid ignition techniques can do much to minimize the smoke impacts of open field burning. The intent of this study is to determine meteorological, fuel, and management limitations to the use of this rapid lighting technique. It involves testing of approximately 30 fields in the southern Willamette Valley throughout the growing season to address the changing meteorological and field conditions that the grower normally faces in a season-long program. The costs have been established for this one year study at \$89,000.
- 3) LIRAQ Verification. This program was authorized by the Advisory Committee on Field Burning last season and due to manpower limitation could not be implemented until this year. LIRAQ is a sophisticated computer simulation model which allows its user to identify effects of various sources on the airshed being modeled. It is currently being adapted to the Willamette Valley by Oregon State University. The contract would provide for the OSU staff to train the DEQ staff in its use and application, particularly to field burning. It is hoped that the LIRAQ model will allow the Department to make some reliable extrapolations with regard to the impact of increased field burning acreages as is contemplated by the new field burning law. The cost is \$23,700.
- 4) Smoke Management Systems Analysis. An initial review of the current smoke management program for potential improvement is proposed. The study would go beyond the meteorological and burning analyses completed to date and identify possible management and organizational improvements to the program. The initial phase of this program is to be accomplished during the next year primarily by the DEQ staff. The associated costs should be less than the identified \$3,000.
- 5) Crew-Cutter Dust Emission Studies. The crew-cutter is a mechanical device for removing excess stubble from the field in order to provide a non-burning alternative treatment. Under dry operating conditions it has a very apparent dust emission problem. The proposed study would provide for some limited emission testing of the device in order to determine whether the very visible dust problem is significant in terms of the crew-cutter's further development. The emission testing will cost \$2,500.

In addition to these programs outlined for 1979, additional work is being planned for the 1980 season in three areas:

- 1) Additional Open Field Burning Emission Testing. The 1978 emission testing effort was cut short due to excessive rainfall and an inadequate number of samples collected. In addition, no sampling of strip-lights was accomplished in the 1978 season. The additional testing of the open field burning emissions is expected to cost \$35,725.
- 2) Air Quality Surveillance Network Continuation. South Willamette Valley monitoring is proposed for a third year at costs identical to those anticipated for the 1979 season.
- 3) Applicability of Custom Burn Crews. Analysis of field burning smoke problems as well as the agronomic needs of grass seed growers indicates that burning earlier in the season is most desirable. Due to a general manpower shortage at this time of the season, major increases in burning activity could not be expected without an influx of additional burning crews. Cooperative use of manpower is expected to only partially fill the needs and the use of custom burning crews may be a viable method for increasing burning during this critical period. There are many questions with regard to the usefulness of the custom burn crew concept such as the level of liability of the burn crew, its ability to integrate with overall farm operations, and the profitability of such a crew operated by the private sector. The Department is seeking to answer such questions. Costs for the applicability study involving personnel and equipment for one season total \$30,000.

Development of Alternatives/Straw Utilization and Marketing

Research on the development of alternatives, agronomic effects of such alternatives, straw utilization, and marketing are designed to continue the work initiated by the Oregon Field Burning Committee and the Oregon Field Sanitation Committee toward non-open burning field treatments. The use of alternatives relies heavily upon utilization and markets for straw. Only when adequate markets become available can the income from the sale of straw be used to offset the higher relative costs of alternatives. Four projects are proposed in this area of research:

- 1) Crew-Cutting/Less-Than-Annual Burning. This is a continuation of a program begun last year and designed to assess the agronomic and economic practicability of the crew-cut machines. The machine itself provides a close-cutting and removal of stubble after the loose straw has been removed from the field. It is hoped the treatment will provide an adequate non-burning alternative to open field burning. The initial phase of this study incorporated the establishment of replicated plots for annual and perennial ryegrass in the 1978 season. The 1979 work would expand the analysis to other perennial crops in other soils typical of the Willamette Valley. As a natural adjunct to the crew-cutting program additional replicated plots were provided for a thorough analysis of less-than-annual burning. The effects on crop yield and stand quality, and to the degree possible, the economic effects of this method of reducing open burning are being studied. The annual cost for these combined programs is \$63,220.

- 2) Straw Utilization Projects. Straw utilization projects encompass basic research or the enhancement of existing technology to assist in the development of specific straw markets. These markets are now being identified as a result of an on-going analysis conducted for the Department by Battelle Pacific Northwest Laboratories. Though the projects have not been specifically identified at this time, \$35,000 is set aside for their implementation.
- 3) The Feasibility of Meadowfoam as an Alternative Crop. Meadowfoam, a native, oil-seed-bearing plant, has been considered for some time as a possible alternative crop for part of the grass seed acreage currently in production. The plant grows suitably on the poorly drained, heavy soils of the Willamette Valley and produces a potentially profitable seed crop providing markets for the extracted oil are available. The interest in Meadowfoam oil has grown recently and it has not been possible to meet the demand for samples of the oil. This proposed demonstration project would be conducted in cooperation with Oregon State University and Bohemia, Inc., and is designed to increase the amount of oil available for various types of market evaluations. Principally, the acreage of Meadowfoam will be increased. The costs are budgeted at approximately \$25,000.
- 4) Agronomic Monitoring of Headfires and Backfires. Because of the damage to grass seed crops attributed to the use of backfires, the Department has sought methods whereby this damage may be estimated. While the primary effort in this area would be conducted in succeeding years, on-site inspections by agronomic experts (extension agents) are planned for this season at a nominal cost. The inspections are proposed to determine on a qualitative basis the effects of backfire on weeds, disease, and overall stand quality. A budget of \$1,000 is set aside for this project.
- 5) Proposed projects for 1980-1981 include a continuation of those projects listed above plus additional work in straw market development. Market development work will be contingent upon current market trends and the results of the Battelle report.

Health Effects

Research on health effects is proposed to identify, if possible, the effects of the generally short-term, but sometimes severe, intrusions of field burning smoke that occur in various areas of the South Willamette Valley. Because of the complicating effects of other sources of air contaminants and the short-term nature of the intrusions, analysis of the problem is expected to be complex. Efforts for the 1979-1980 year are aimed at the development of a study design. Such development work may include a workshop which would bring together experts in the field of epidemiological studies. Sixteen thousand dollars is allocated for this developmental phase.

At this time, \$70,000 is identified as the growers' fee contribution to a major epidemiological study as may result from the development work. It is expected that this major study would be much more costly than the \$70,000 contribution and that additional funds would be sought from other sources. Such a study could not begin before the 1980 season.

The proposed research activities costs may be summarized as follows:

	<u>79-80</u>	<u>80-81</u>	<u>Total</u>
Air Quality SMP Research	\$164,032	\$111,517	\$275,549
Alternatives, Straw Utilization/Marketing	124,220	88,000	212,220
Health Effects	<u>16,000</u>	<u>70,000</u>	<u>86,000</u>
	\$304,252	\$269,517	\$573,769

Director's Recommendation

It is recommended that the Commission concur in the budget development process followed by the Department and the Advisory Committee on Field Burning and approve the proposed budget, as outlined in Attachments I and II, subject to further revisions presented at the June 29, 1979, EQC meeting.



WILLIAM H. YOUNG

- Attachments: I Proposed Field Burning Research and Development Plan 1979-1980 (Summary)
II Proposed Field Burning Research and Development Plan 1979-1981

SAF:pas
686-7837
June 13, 1979

PROPOSED FIELD BURNING RESEARCH AND DEVELOPMENT PLAN 1979-1981

Estimated projects costs for first and second year are best available projections for 1979-1981 biennium funding. Cost figures in brackets indicate expected start-up costs to be derived from 1977-79 (current) budget. The designation "open" in the second-year column indicates a potential need for continued research in that particular project or study area, pending review of the results from first-year work. A budget summary statement is attached.

FIRST-PRIORITY PROJECTS

Smoke Management & Air Quality Research	79-80	80-81	Agronomy, Marketing & Utilization Research	79-80	80-81	Health Effects & Other Research	79-80	80-81
<u>AQ Monitoring Network(DEQ)</u> ¹ continuation with 7 sites	45,792	45,792	<u>Crew-Cutting/Less-Than-Annual Burning Exp.(OSU)</u> continuation, monitoring agronomic & economic effectiveness of crew-cutting and non-annual open burning for additional species & environmental conditions (multi-year)	60,720	30,000	<u>Preliminary Health Effects Research & Planning</u> study design not yet finalized, plus possible workshop planning session (1st yr). Implementation of major epidemiological study (2nd yr), figure represents grower's contribution	10,000	70,000
<u>Applicability of Rapid Ignition Techniques(OSU)</u> determine meteorological limitations and plume dispersion capabilities of rapid ignition and strip-light methods from smoke management perspective	89,000	open	<u>Less-Than-Annual Burning Exp. Extension(OSU)</u> to include monitoring of agronomic effects of (simulated) striplight burning	2,500	8,000		[6,000]	
<u>FB Emissions Testing(DEQ)</u> ² continuation with emphasis on striplighting, additional grass types, and to fill info. gaps on regrowth, compaction, etc. (subject to subsequent review)	0	35,725	<u>Straw Utilization Projects</u> development of critical technologies pending Battelle analysis	35,000	25,000			
<u>Custom Burn Crew(DEQ)</u> 1 yr. demonstration of feasibility of custom burning operation, cost analysis included, for private sector take-over in subsequent years. To provide safe & effective rapid ignition burning in critical areas	0	30,000	<u>Straw Marketing Projects</u> follow-up R & D funding for market development & assistance, pending Battelle analysis	0	25,000			

<u>Smoke Mngt Systems Analysis (DEQ)</u>	3,000	open	
contractor to review & improve program operation & organization			
<u>Crew-Cutter Dust Emissions Testing (DEQ)</u>	2,500	0	
test stack and possibly fugitive dust emissions generated by crew-cutting under various environmental conditions (costs may vary depending on availability of personnel & testing equipment in coordination with FB Emission Testing Program)			
<u>LIRAQ Verification (DEQ)³</u>	[23,740]	0	
transfer & in-house verification of computer model			
Subtotals	<u>140,292</u>	<u>111,517</u>	
	[23,740]		

<u>Meadow Foam Feasibility as Aternative Crop (OSU)⁴</u>	25,000	open	
demonstration project to assist cultivation & production of crude seed oil for determination of marketability through user survey (quality, value, uses), concurrent marketing analysis of oil products value			
<u>Agronomic Monitoring of Backfire/Headfire Test Burns</u>	1,000	open	
on-site inspection by extension agent of test-burned fields for informal weed, disease, and stand analysis			
Subtotals	<u>124,220</u>	<u>88,000</u>	

Subtotals	<u>10,000</u>	<u>70,000</u>
	[6,000]	

	<u>1st yr</u>	<u>2nd yr</u>
Total	274,512	269,517
	[29,740]	

Total (1979-81 biennium) 544,029

¹Total projected annual cost \$96,837 (\$51,045 Federal monies plus \$45,792 field burning fee monies.

²Start-up costs of approx. \$4,275 required, to be derived from current ('77-'79) funds, with possibly an additional \$2,850 costs should project be implemented first year (summer, 1979).

³Funds allocated and available through carry-over from 1977-1979 budget.

⁴Project represents considerable cooperative effort by Bohemia, Inc.

SECOND-PRIORITY PROJECTS

Smoke Management & Air Quality Research			Agronomy, Marketing & Utilization Research			Health Effects & Other Research		
	79-80	80-81		79-80	80-81		79-80	80-81
<u>Additional Network Data Analysis</u>	10,000	10,000	<u>Alternate Crops Review(OSU)</u>	7,000	0	<u>Comprehensive Environmental Impact Assessment of FB Strategies</u>		0 open
any additional statistical analysis of AQ data deemed necessary			technical and economic survey (update) of potential for alternative crop development in Willamette Valley (includes evaluation of social components)			determine environmental/land use trade-offs of current vs. alternative FB strategies, possible additional LIRAQ modeling		
<u>Smoke Management Techniques Improvement(DEQ)</u>	6,000	0						
workshop or travel to discuss & observe SM programs in other areas								
Subtotals	<u>16,000</u>	<u>10,000</u>	Subtotals	<u>7,000</u>	<u>0</u>	Subtotals	<u>0</u>	<u>open</u>
						Total	<u>1st yr</u> 23,000	<u>2nd yr</u> 10,000
						Total (1979-81 biennium)		33,000

Proposed 1979-1981 Field Burning Research
and Development Program

by

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May 10, 1979

PREFACE

In 1977, the Department of Environmental Quality, by legislative action, was charged with the responsibility of conducting a program for research and development of reasonable and economically feasible alternatives to the practice of open field burning in the Willamette Valley; funds were to be provided by annual registration and burning fees. Several broad areas of study were specified to serve as a framework for development of such a program, the specifics of which were to be drafted and implemented by the Department with the advice and assistance of an advisory committee. The Department carried out its first full year of research during 1978, accomplishing a variety of specific research objectives,

This document, prepared by the Department for review and discussion, outlines the proposed Field Burning Research and Development Program for the 1979-1981 biennium. Included in this report are the legislative and administrative guidelines for conducting the program, a review of pertinent research findings to date, an overview of the short- and long-term objectives of the program, and a discussion of the specific proposed research priority areas, projects, and allocations. The proposed R&D plan is presented in summary (outline) form following this section.

Upon review by the Advisory Committee on Field Burning, and the Environmental Quality Commission, the proposed research plan will be adopted in final form for use as a guide in evaluating, funding, and implementing research projects through the 1979-1981 biennium.

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I INTRODUCTION

A. General Discussion:

The annual practice of open field burning in the Willamette Valley has been the subject of considerable attention and debate for several years. The practice began in the late 1940's when it was discovered to be an effective means of sanitizing grass seed fields and of disposing of the straw and stubble residue which typically remains after harvest. Agronomic benefits of open field burning were found to include 1) the virtual eradication of two major grass seed diseases (ergot and blind seed disease) once prevalent in the Valley; 2) the suppression of insect and weed infestation, and 3) a general stimulation of per-acre seed yields of three to four fold over yields achieved prior to its use. Today, the Willamette Valley accounts for approximately 75 percent of the nation's grass seed production, contributing \$80 - \$120 million annually to Oregon's economy. The practice of open burning, combined with favorable climate and soil conditions, is considered to be a key factor in the success and prominence of the grass seed industry.

But open field burning also contributes significantly to the Willamette Valley's air pollution problems and related social costs. Smoke intrusions into urban areas do occur causing intolerable annoyance to some people, including the aggravation of respiratory problems and possibly other ailments, soiling of property, reduction of visibility, and increased fire and highway safety hazards. Field burning may also play a role in the difficult problem of meeting existing and future state and Federal ambient air quality standards in certain areas.

Public opposition to open field burning began in the early 1960's and, in the following years, the issue became a politically controversial one. Initiation of smoke control efforts in 1967 subsequently proved to be an effective interim approach to the problem. A long-term solution through development of feasible and acceptable alternatives to burning, however, was not at hand, and the impact of field burning on air quality standards and the public health and welfare became the subject of considerable speculation and debate. At the time, there was no coordinated research and development effort to address these questions.

B. Legislative Directive:

Historically, the Legislature has played a dominant role in the control of open field burning in the Willamette Valley. In response to growing environmental sentiment, the Legislature in 1971 opted for a total ban on field burning to become effective January 1, 1975. A Field Burning Committee was established at that time to find solutions to the open field burning problem. Unfortunately, specific program guidelines were not established, and the 50 cent to \$1 per acre burning fee established as the only funding source for the program may not have been adequate. As will be discussed later, work during this period was limited primarily to the development of a mechanical solution to the problem, the mobile field sanitizers, without a great deal of success.

It became apparent to the Legislature by 1975 that no acceptable alternative had been developed and the burning ban was rescinded at that time. An acreage phase-down schedule was established, however, to be the declared goal of the 1975 assembly, instating a limit of not more than 50,000 acres

to be burned during the 1978 season and each year thereafter. Concomitantly, the Field Burning Committee was abolished and replaced by the Oregon Field Sanitation Committee (OFSC), also a five-member body, two of which were to be appointed by the Director of the Department of Agriculture, two by the Director of the Department of Environmental Quality, and one by the Governor.

This new committee, created in 1975 by Senate Bill 311, was to serve in a special advisory capacity to the Environmental Quality Commission in the promulgation of any rules providing for a more rapid phased reduction of burning than had been scheduled by law. The responsibilities of the OFSC were to "monitor and conduct programs for development of feasible alternative methods of field sanitation and straw utilization and disposal ... [and to] ... make recommendations for research and development of alternative methods." Additional powers and responsibilities were also granted the committee to facilitate this objective of developing, demonstrating, and assisting the private use of alternative sanitation and disposal methods. Research and development funds for the biennium were derived from growers' fees minus 20 cents per registered acre given to the local fire districts and the 50 cents per acre burned given to the Department to administer the smoke management program. Burning fees for 1975 and 1976 were set at \$3 and \$4 per acre, respectively. An annually escalating fee schedule was established to maintain program revenues in spite of the scheduled phased acreage reduction. Total available research funds for 1975 and 1976 were about \$531,000 and \$540,000, respectively.

Research efforts during this period also failed to develop a viable alternative to open field burning. As a result, the 1977 legislature, in House Bill 2196, revised the scheduled acreage reduction established in 1975 so that the limits were set at 195,000 acres (vs. 95,000 acres) for 1977, and 180,000 acres (vs. 50,000 acres) for 1978. Realizing that a simple short-term solution to the problem did not exist and that an intensive effort of broad scope was necessary, it was stated at that time to be the public policy of the state to reduce air pollution by smoke management and to continue to seek and encourage, by research and development, reasonable and economically feasible alternatives to the practice of annual open field burning. Several research and development areas were specified in the law for study, ... "such programs to include, but not be limited to:

- (A) Utilization and marketing of crop residue;
- (B) Research on development of alternate crops;
- (C) Research on improvement of air quality and smoke management;
- (D) A study of methods of field sanitation and the economic, agronomic, and environmental effects of mobile burners and other alternatives;
- (E) Research on development of alternate weed, pest, and disease controls; and
- (F) Research on the health effects of open field burning."

It was also specified in the law to monitor and study the impact of open field burning on air quality in the Willamette Valley, in addition to the other powers and responsibilities previously established to facilitate development and demonstration of feasible alternatives, and promotion of their use. The inclusion of guidelines for research into improving smoke management and assessing the health impacts of field burning is notable and reflects an expanded perspective, from that of previous years, of the field burning issue and the problems associated with its solution.

The responsibility for conducting this expanded research and development program was assigned to the Department; the powers, duties, property, and revenue of the Oregon Field Sanitation Committee were transferred thereto, and that committee was abolished. A five-membered advisory committee with a broad representation base was established, however, to aid and assist the Department in conducting the research and development program, one member each to be appointed by: 1) the Director of the DEQ, representing the Department; 2) the Dean of the School of Agriculture at OSU, representing the University; 3) the Director of the Department of Agriculture, representing agriculture; 4) the Governor, representing the public; and 5) the Director of the Economic Development Department, representing that agency.

Except for about \$120,000 to support the registration costs incurred by local fire districts, and an increased portion, not to exceed \$400,000 per biennium, to support the smoke management program, revenue for the new research and development program was similar to previous years. All funds were still derived from registration and burning fees. The approved research budget for the 1977-1979 biennium totalled \$1,035,764, including \$208,123 of general fund monies to support an air quality surveillance network.

C. Program Organization and Structure:

The current program for research and development of alternatives to open field burning consists of the coordination of several bodies. The Department staff is responsible on a day-to-day basis for administering approved research projects, including contract management duties, tracking of progress and expenditures, and review and disbursement of reports and other information

relevant to the research objectives. The staff helps to coordinate committee and subcommittee meetings and serves as liaison between these groups. In addition, the Department solicits proposals for research and, with the assistance of subcommittee members, prepares for review by the Advisory Committee and the EQC, a comprehensive research plan for each biennium which is annually updated. This plan serves as a guideline for funding and evaluation of specific research proposals and study areas.

A detailed explanation of the objectives and functional relationships between the individual subcommittees, the Advisory Committee, and the field burning staff is presented in Appendix A.

II RESEARCH UPDATE

A. Research Prior to 1975:¹

During the 1960's and earlier, research into field burning primarily focused on the agronomic benefits of reduced disease infestation and increased seed yields. Some groundwork research was conducted on open burning emissions to determine the contributing role of various environmental factors, however, no alternative sanitation system had yet emerged for comparison. A limited amount of work was performed on alternate disease control methods and on utilization of straw for feed, however, for lack of restrictions on the open burning practice, there was little incentive for continued development of these alternatives.

In 1971, however, in response to public outcry, the Legislature voted to ban open field burning, effective January 1, 1975, and established the Field Burning Committee to develop alternatives to the practice. From the beginning, efforts by the Committee, through its consultants and contractors, emphasized the development of a mobile field sanitizer, a field burning machine, on the expectation of reducing emission rates without sacrificing the proven benefits of thermal sanitation.

Several prototype machines were built and tested from 1970 to 1974, with variable success. The Flamer was developed in 1974 as an interim machine using propane for fields too wet or green to support their own flame; however, the forward-flowing-flame principle eventually introduced into this design with considerable success made this model the prototype for further significant machine refinements.

¹ Discussion based on: Odell, Glen, F. and Thomas R. Miles, Consulting Engineers' Report to the Oregon Field Burning Committee for the Year 1974, December, 1974.

Significant limitations to the machine were encountered, however, in terms of their operability, sanitizing effectiveness, and emission characteristics. As expected, fine particulate emissions from the machines were reduced approximately 75 percent as compared to open burning emissions. Of course, little plume height was achieved either and the extent of low-level smoke produced was of some concern. In addition, the machines were bulky, not easily transported from field to field, and generally slow during operation. They were also labor intensive and expensive to operate. The presence of any green regrowth on a field also presented a problem and occasionally crop burn-out occurred.

Another significant problem discovered early on in the development of the sanitizers was their inability to burn the total straw load typically occurring on the field. Excess straw had to be removed from the field creating additional associated costs and problems of straw storage, disposal, and use. Therefore, research into the utilization of straw for feed, fiber, fuel, and feedstock was initiated. By 1975 the animal feed and hydromulch markets appeared to hold the most promise though additional testing and technical refinements were necessary. The need for continued work in other areas of straw utilization, including establishment of a pelletizing plant and research into particleboard markets, was also recognized. Investigation of crew-cutting as an alternative sanitation method was also recommended.

B. Research 1975 - 1977:¹

Research and development efforts for improving sanitizer design and promoting

¹ Discussion based on: Miles, Thomas, R., Report of Currently Active Projects, Their Status and Recommendations, conducted for the Oregon Field Sanitation Committee, June 30, 1977.

straw utilization were expanded during 1975 - 1977 under the new Field Sanitation Committee.

The principles of machine design developed earlier lead to the construction and successful testing of a small prototype machine (75-04) early in 1975. Three additional machines (Dragonflies) were then built based on the prototype and used during the 1975 season with some success, though they required a great deal of maintenance. These models were then mechanically modified and refined for use during the 1976 season. Two larger "Condor" models were also built on the same principle for use during the 1976 season. All the machines operated relatively successfully though significant problems were encountered, including: 1) farm management problems associated with straw removal and the need for large sanitizer crews, 2) problems of heat dissipation and machine durability, and 3) high construction and operation costs which were not expected to be offset by straw markets. Additional operation and testing of sanitizers were recommended for the 1977 season.

Work in the area of straw utilization during this period also continued providing an update of various straw market potentials. The technical requirements for straw collection, storage, and transportation were also reviewed along with some engineering work directed toward their solution. A summary of the highlights of this work is presented below.

With regard to the collection, storage and transport of straw, several significant limitations were recognized and recommendations were made to correct them:

1. continue work in achieving baler design giving 16 lb/cf bale density,
2. continue support for crew-cutting experiments,
3. monitor progress of stackwagon, chopping, and "whole-harvest" systems for collection, and
4. promote shed storage and continue to investigate merits of open storage of chopped-straw piles.

With regard to various potential markets, the following recommendations for continued work were made:

FEED

1. continue horse feeding trials and work on injector to impregnate bales with feed supplements,
2. continue assistance to mushroom and worm markets and assist development of straw quality standards,
3. continue use of straw in pelleting mixes, in combination with other agricultural wastes for feed, and in semi-solid fermentation experiments.

FUELS

1. continue development of bale burner and farm straw furnace, emphasizing improved feeding apparatus and simplified design.
2. monitor briquettes, pellets, straw dust for fuel
3. monitor pyrolysis gas research.

FIBERS

1. fund horticultural or other defiberized straw uses,
2. monitor paper pulp technology and markets,
3. continue work on straw for sewage sludge filtration for field

application or soil incorporation,

4. no activity required in the hydroseeding markets.

FEEDSTOCKS FOR CHEMICALS

1. continue communication and assistance with ERDA/Albany experimental plant,
2. continue cooperation with research efforts in pyrolysis of straw and sewage mixture,
3. monitor market for furfural production.

C. Research 1977 - 1978

Field burning research during the 1977 - 1978 biennium was expanded considerably over efforts of previous years. The new field burning law abolished the Oregon Field Sanitation Committee and transferred the responsibility for conducting the program to the Department; an appointed advisory committee was created to assist the Department in its research and development efforts. The law also specified several new areas to be studied, in addition to those emphasized in the past. These new areas included alternate crops, alternate disease, pest, and weed controls, smoke management improvement, Valley-wide quality monitoring, and health effects (see Legislative Directive p. 4).

1. Proposed 1977 - 1979 R&D Plan:

In accordance with its new responsibilities, the Department prepared a research plan proposal for 1977 - 1979 field burning research and development (R&D) funding.¹ This proposal, reviewed by the Advisory Committee and submitted to the Emergency Board in January of 1978 for approval, represented the first comprehensive review of the wide range

¹ Proposed Allocation of 1977 - 1979 Acreage Fees for Specific Purposes Authorized by HB 2196 (Discussion Draft) by Robert L. Gay, Department of Environmental Quality, November 9, 1977.

of available research options for assessing the impacts of open field burning and developing alternatives to the practice. The document was approved, with slight modification, and served as an update of past efforts and as a guide for evaluating and implementing research activities during the current biennium. The more important portions of this plan, plan refinements, and subsequent research accomplishments are discussed below.

It had become apparent by 1977 that no single alternative, or group of alternatives, was available to replace open field burning without unacceptable risk to the economic stability of the grass seed industry. Development of a mobile field sanitizer which was acceptable for general use had not been accomplished, and continued commitment to additional construction, operation, and testing of the machines had come under close scrutiny. Attempts to significantly increase straw utilization had likewise been less than successful, as no major economically viable straw market, or combination of markets, had yet been identified. Critical information gaps in other areas were still apparent. The need for developing a set of criteria to help direct and evaluate individual field burning research and development (R&D) projects, especially in light of the new legislative directive to broaden program perspectives, was clearly recognized.

After review of research accomplishments, it was determined that when evaluating and selecting research projects and allocating available acreage fees, the Department and Advisory Committee should:

- a. Favor projects which fill critical information gaps

related to quantification of air quality impacts, quantification of agronomic and economic effects of not burning by crop types, and to continue testing of the mobile field sanitizer.

- b. Give special consideration to the most promising projects funded with past field burning R&D funds, in order to obtain maximum use from these past investments.
- c. Give high priority to R&D projects which are most likely to pay off in the near term, especially in the areas of cost-effective field sanitation methods, straw utilization, and air pollution abatement.
- d. Favor projects which apply existing knowledge over basic research which develops new data or concepts.
- e. Favor projects which field test promising projects or methods on a scale comparable to actual farming conditions.

Information recognized to be of highest priority was the documentation of both (1) the role of field burning in contributing to air quality impacts, that is, to possible standards violations, visibility reductions, health effects, and general nuisance conditions, and (2) the urgency, both agronomically and economically, of annual versus less-than-annual burning of each field. The former was necessary to provide quantitative total suspended and fine particulate information to serve as baseline data for evaluating various field burning strategies and comparing emissions of various alternative sanitation methods. Field emissions tests of sanitizers and open field burning were proposed. Analysis of the agronomic and economic effects of not burning annually was deemed a high priority need because of its potential for substantially reducing

air pollution in the short-term without expensive investment in developing control equipment or procedures.

First priority projects were identified as follows:

1) Field/slash burning air quality surveillance network (represents one-third of total estimated cost)	\$200,000
2) Study of agronomic and economic effects of not burning	30,000
3) Analysis of mobile field sanitizers	80,000
4) Mobile sanitizer:	
Management of 1978 sanitizer program	30,000
Contracted machine maintenance	35,000
Agronomic monitoring by OSU	20,000
Emission testing of sanitizer versus open burning	20,000
AQ impact modeling of sanitizer versus open burning	20,000
4) Feasibility study of an epidemiological analysis of health effects of burning	<u>20,000</u>
	Subtotal First Priority \$495,000

The development of other alternative field sanitation methods and straw utilization markets were deemed to be of second highest priority for funding, primarily because of previous research commitments in these areas which demonstrated some initial success. Crew-cutting appeared the second most promising alternative sanitation methods. As with the sanitizers, prior removal of straw from the fields is required, making use of the straw for its economic return of critical importance. Continued design and experimentation with crew-cutting as well as demonstration and research work in several of the more promising straw market

areas were proposed for second priority rating:

6) Crew-cutting

Design and construction of new machine(s)	\$ 50,000
Agronomic monitoring of test fields	5,000
Fugitive emissions testing of crew-cutter	15,000
Disposal of residues by composting	10,000

7) Straw utilization

Densification of straw bales	75,000
Demonstration: outside storage feasibility	15,000
Demonstration: bale furnace	20,000
Demonstration: straw as potting medium	10,000

Feeding trials:

Review existing data	7,500
Continue several horse feeding trials	5,000
Contingency: new feeding program	<u>50,000</u>

Subtotal Second Priority \$262,500

Areas of research which did not demonstrate much promise for contributing to a short-term solution to the open field burning problem were designated third priority. These areas include alternative crops alternative disease, pest, and weed controls, and smoke management. With regard to the first category, the need for a review of alternative crop possibilities was recognized, though original, long-term, development oriented research was not deemed appropriate. Under the area of alternative disease, pest and weed controls, again no projects were identified which were not considered basic laboratory research, or costly and long-term in nature. Research on refinement of smoke management

A summary description of the projects which were implemented during 1978 and the beginning of 1979, including significant findings from those projects, is provided below. For this discussion, projects are grouped into three categories: research on improvement of air quality and smoke management; research on agronomy (including alternative sanitation methods), and straw marketing and utilization; and research into health effects. (For a budget update for the 1977 - 1979 biennium, refer to the proposed 1979-1981 program budget following page 48.)

Air Quality and Smoke Management Research Projects:

Air Quality Surveillance Network - an air quality sampling network consisting of ten fixed sites throughout the Willamette Valley operated continuously from May through November to determine the effects of field and slash burning on total suspended particulate (TSP) and fine particulate levels. Preliminary results from the first three and one-half months of sampling suggest that field burning activities did not measurably contribute to violations of Federal ambient air quality standards. Dust particulate was found to constitute the majority of TSP in the Willamette Valley airshed. Both field and slash burning were found to have noticeable impacts on particulate levels under long-term smoke intrusion conditions, however. Emissions from these sources are primarily in the fine particle size range, and are therefore of potential significance to both health and visibility. Efforts to develop a source "tracer" from the elemental composition of collected particulate are continuing. Final results of this study are expected in June.

Other Air Quality Studies - additional work on characterizing field and slash burning pollutants for polynuclear aromatic hydrocarbon content was performed on collected (filter) particulate. Hydrocarbon concentrations, including concentrations of Benzo (a) pyrene, a strongly active carcinogen, were found to be high for burn emissions. Ambient downwind concentrations were barely detectable, however, which may be due to "fall-out" or photochemical decomposition during transit. Another project in progress is designed to determine the relative contribution of field burning, slash burning, and other sources to visibility reduction in the South Willamette Valley. The role of pollutant concentrations as well as meteorological conditions in determining visibility degradation will be examined. Results are not yet available.

Field Burning Emissions Testing - the Department conducted a testing program to determine the amount of particulate and condensable hydrocarbon emitted from field burns as a function of meteorological conditions, fuel loads and fuel moisture content, and burning techniques. Results indicated that the difference in emission rates between headfire and backfire burning techniques was significant, backfiring producing relatively less total emissions. Emission rates were generally found to be greater overall than previous studies had suggested. The effect of fuel moisture on emissions was particularly significant. There was no discernible difference between the two grass types tested, annual and perennial ryegrass. A model equation is being developed to ultimately predict emission rates under various conditions. The effects of compaction, regrowth, and alternative grass types, however, are unclear, and little work on striplighting has as yet been accomplished.

Plume Evaluation - two projects were implemented to better characterize the behavior of smoke plumes resulting from different burning techniques, under varying meteorological and field conditions. One study employed both aerial and ground-level particulate monitoring for medium distances downwind from the burn, in order to determine the vertical, horizontal, and downwind dispersion of smoke. Results from this study suggest that backfiring, as a burn technique, causes the greatest downwind impact when both exposure time and concentration are considered. Perimeter or rapid-ignition burns cause the least, typically producing a column of smoke which rises to upper level winds and is dispersed. Another related research project focused on a particular method of rapid-ignition, the Fireline or drag-line system. This method consists of a set of lines and torches which are pre-laid in the field, and then ignited and pulled across it by winches when burning is to be accomplished. An advantage of this method is that several lines of fire can be established in a very short period of time, allowing a rapid burn with good plume loft. Testing this summer using the Fireline method confirmed the potential benefits of rapid-ignition as a smoke management tool, though some economic and practical constraints with the Fireline method were noted.

LIRAQ Model Verification - the Livermore Regional Air Quality (LIRAQ) model developed in the San Francisco Bay Area has been adapted for use in the Willamette Valley by the Department of Atmospheric Sciences at Oregon State University. The model is designed to evaluate the effectiveness of various alternatives and smoke management strategies in reducing air quality impacts from open field burning. The model is

currently being transferred to the Department for application to field burning and other sources.

Agronomy and Straw Marketing and Utilization Research Projects:

Sanitizer Analysis - the FMC Corporation was commissioned to perform a major engineering and economic review of the mobile field sanitizers to be used as a guide for future research and development funding. Conclusions from that report were that 1) none of the sanitizers built to date can be considered adequately tested and ready for production, 2) the machines are not currently economically feasible for wide scale use as an alternative sanitation method, 3) field sanitizers can be made to effectively sanitize grass seed fields, however, a benefit in reduced total particulate emissions is questionable, and 4) continued development of field sanitizers will not result in a technological solution to the elimination of open field burning in the short-term. Based on these results, there was no additional testing of field sanitizers planned for 1978, and, though available, none were used by the growers. Two older models were planned for disposition.

Effects of Not Burning and Experimental Burning - an informal field survey by an Oregon State University agronomist was performed during 1978 to determine the extent of disease infestation on unburned and experimentally burned fields. Little reliable information could be obtained using this approach due to the range of variables which could not be controlled or measured.

Crew-Cutting and Less-Than-Annual Burning - the long-term effects of crew-cutting and of non-yearly burning on seed yields is currently under investigation at Oregon State University through a five-year research program. Replicate plots have been planted and subjected to a variety of treatment combinations in order to determine their relative effect on seed yield, and disease, pest, and weed infestation. Various grass and soil type combinations will be considered. Various methods of straw removal, a pre-requisite for crew-cutting, and on-site straw disposal will be examined. Thus far, the crew-cutter has performed quite adequately under a variety of conditions, though its generation of dust is of some concern. Agronomic and economic results are not yet available for the crew-cutting or less-than-annual burning projects.

Straw Marketing - a straw marketing analysis is currently in progress by Battelle Northwest, the objective of which is to identify the most promising straw utilization markets. Major technical and economic constraints will be identified for a range of possible markets so that future market development efforts can be most effectively directed. Preliminary screening of markets suggest the following to be the most promising in the near-term: 1) Japanese and 2) domestic livestock feeding, 3) hydromulch, 4) fiberboard, 5) decorative fiberboard, 6) direct combustion, 7) small scale pulp and paper, and 8) horticultural uses. More detailed study of these markets is in progress and final recommendations for market development are expected in May or June.

Straw Utilization - major R&D investments in straw utilization have been deferred pending results of the marketing analysis in progress. A

research project to develop a fungal growth inhibitor has been implemented in response to mold infestation problems at a local straw hydro-mulching plant. The mold problems represented an immediate threat to a major commercial straw-use operation, and an attempt to develop a growth inhibitor was deemed necessary. Results from this project are not yet available, though, for reasons which are not certain, the mold problems at the particular plant have lessened.

Health Effects Research Projects:

Breathmobile Data Study - a statistical analysis is currently underway of respiratory function data collected from around the state, over a period of several years, as part of the Oregon Lung Association's Breathmobile program. Several geographic areas were delineated for analysis and comparison. The South Willamette Valley was selected as the test group to ascertain the general respiratory health of residents from this area relative to residents of other areas. In addition, information derived for residents of this area could also serve as a data base for future comparative studies. Preliminary results indicate that South Willamette Valley residents are, on the average, healthier in terms of respiratory function than residents from other areas.

Other Health Effects Studies - mutagenicity analysis of ambient particulate pollutants collected in 1977 on days when field burning had taken place have proved inconclusive and in need of further investigation. Carcinogen concentrations in field burning smoke has been found to be high (see "Other Air Quality Studies"), however, for reasons unknown at this time, downwind levels were barely detectable. At the present

time, additional preliminary health effects studies are planned to better evaluate the health risks and to justify the need for future expanded cost intensive research.

III PROPOSED 1979 - 1981 RESEARCH
AND DEVELOPMENT PLAN

A. Program Overview - Philosophical Development:

A comprehensive philosophical framework or foundation is an essential component to any effective research and development (R&D) program. It serves, in effect, as the means, or guiding theme, for developing specific program objectives which are directed to the tasks of filling critical information gaps of both a technological and social nature. The philosophical framework should be sufficiently precise to serve as a guideline for developing individual research projects, and project components, in order that the findings from this research will contribute to the refinement, and further the accomplishment of the stated program objectives. It should serve as the criteria for evaluating proposals for funding. This framework should also, however, be sufficiently flexible that needed, though unanticipated, changes in program objectives, departmental policy, or state law can be effectively accommodated.

Historically, fee-funded field burning research and development has been somewhat narrow in perspective. Efforts up until now have generally focused on a single alternative sanitation method, the mobile field sanitizer, and work on developing other methods, or alternative burning techniques, was deemphasized. There was also little preliminary work accomplished in gathering the necessary baseline data with which to ultimately evaluate the physical, economic, and social impacts resulting from a range of possible alternative field burning strategies.

In accordance with legislative intent and to be consistent with program objectives of the previous two years, the scope of the 1979 - 1981 R&D program should be broad and multi-faceted in approach. This reflects the complexity of the problem; the recognition that no "reasonable and economically feasible" alternative or group of alternatives currently exist, and that ultimate solutions to the problem will likely be accomplished by a combination of alternatives. Therefore, alternatives both in burning and cropping techniques should be examined. Major crop/soil type combinations should be considered individually due to inherent differences in growing requirements and options, economics, and location (meteorological setting). Delineation of distinct subareas within the Willamette Valley and development of specific criteria for each subarea may be a feasible and useful approach.

Information generated by the program should be in such a form as to allow fair and accurate comparison of current field burning practices and alternative strategies. Consideration should be given to quantifying all costs and benefits, not only in terms of economics, but of social impacts and anticipated environmental tradeoffs. This, of course, will necessitate greater cooperation with other state and local agencies, and improved communication with representatives from similar R&D programs in other states. Greater input and cooperation from the local citizenry is essential.

In addition, the design of the program should be such as to maintain continuity between past efforts, current informational needs, and information which will be needed in the future. Due to the continuance of field burning as a major social issue, and because trends in political controls on field burning and their effect on research and development cannot easily be predicted,

consideration and delineation of both short-term and long-term goals is needed. Projects which are expected to pay off in the near term or provide base-line data essential for other near term projects should be given high priority status. Projects which exhibit considerable promise but are multi-year in nature should also be implemented early on. Areas of research which are not high in priority should be monitored for any change in status in the future. Projects which cannot now be effectively implemented, for lack of adequate base-line data or sufficient justification of need, or for other reasons, should nonetheless be identified along with a discussion of the limiting factors involved, and an estimated timetable for accomplishing significant "milestones." In this way, progress in achieving specific long-term goals could be monitored. The establishment of goals and a procedure for following progress could also serve as a decision making guide to short-term planning efforts.

Based on these considerations and guidelines, the following criteria have been developed for evaluating individual field burning R&D projects, or study areas, for priority funding during the 1979 - 1981 biennium:

- a. Favor projects which fill critical information gaps, including the quantification of socio-economic and environmental trade-off costs of alternatives.
- b. Give special consideration to the most promising projects funded with past field burning R&D funds, including multi-year projects in progress, in order to obtain maximum use of these past investments.
- c. Give high priority to projects which are most likely to pay off in the near term, especially in the areas of cost-effective field sanitation methods, straw utilization, and air pollution abatement.

- d. Favor projects which field test promising concepts or methods on a scale comparable to actual farming conditions in the Willamette Valley.
- e. Favor projects which apply existing knowledge over basic research which develops new data or concepts.

B. Proposed Research Plan - Project Priorities and Funding Allocations:

Three broad areas of study for research and development of alternatives to field burning can be delineated which reflect basic distinctions. This delineation reflects the organizational structure of the program (committee/subcommittee organization) and, of course, can easily accommodate those specific areas of research specified for study by law: 1) Smoke Management and Air Quality, which includes research on improvement of air quality and smoke management, and air quality impact monitoring; 2) Agronomy (alternatives development), Marketing, and Utilization, which includes the study of the utilization and marketing of crop residue, research on development of alternate crops and alternate weed, pest, and disease controls, and the study of alternative methods of field sanitation and the economic, agronomic, and environmental effects of mobile burners and other alternatives; and 3) Health Effects, which includes research on the health effects of open field burning.

A discussion of specific immediate and long-term information needs within each of these categories is presented below along with proposed project priority listings and allocations for the 1979 - 1981 program. Only brief descriptions and objectives of individual projects or study areas are included, though a more detailed description of each major project is presented in Appendix B.

1. Needed Information of First Priority:

Some information is, of course, more urgently needed than other information. Documentation of 1) the need, agronomically, for burning every field, every year, and 2) the contribution of field burning as a pollutant source to local air quality deterioration (i.e., its role in violating Federal air quality standards, impacting public health, reducing visibility, and causing nuisance conditions), was recognized in previous years as a necessary first step toward characterizing and significantly reducing air pollution in the short-term without significant costs to the grower. The immediacy of the need for this information as a basis for justifying and directing the development of both research goals and acceptable control strategies for field burning was also quite apparent. Though significant gains were made during this past year's research, primarily in documenting field burning pollutant contributions, significant questions still exist which need to be addressed.

The following is a discussion of informational needs considered to be of first-priority to the accomplishment of program objectives; the three major areas of study are considered separately.

1.1 Smoke Management and Air Quality Research:

An intensive one year air quality surveillance program was initiated during 1978 to determine the role of field and slash burning practices in contributing to the air quality impacts previously described. Data from the 1978 network helped to clarify the general role of field burning as a non-contributor to violations of Federal ambient total suspended particulate (TSP) standards. Contributions to local concentrations of fine-particulate, which are of considerable significance to both health

and visibility though not fully represented by TSP levels, were detected, however, and are in need of further study. The variability in both weather conditions and the amount of burning accomplished from one season to another is also important in defining the range of potential air quality impacts from field burning.

The EPA has indicated that future upward changes in the maximum allowable acreage limitation, as is currently being considered by the Legislature, could only be approved on the basis of stronger scientific evidence that increased burning will not 1) cause or contribute to air violations of National Ambient Air Quality Standards (NAAQS), 2) impair or significantly delay attainment of NAAQS in any non-attainment area; and 3) cause or contribute to any violation of applicable [Prevention of Significant Deterioration] (PSD) increments.¹ Federal approval of such an acreage increase is required in the form of a State Implementation Plan (SIP) revision.

In light of these considerations and the concern that information from only a single year cannot be considered for conclusive support of any permanent acceptable control, or even research strategy, the staff recommends that the Air Quality Surveillance Network be continued during the next two seasons, though on a somewhat reduced scale. Seven sampling sites are proposed, reduced from ten sites plus a mobile sampling unit which operated last summer. Sampling would be continued at Corvallis, Halsey, Lebanon, Coburg, Springfield, Eugene, and Creswell on a daily

¹ Testimony to the House Committee on Agricultural and Nature Resources by Douglas C. Hansen, Director, Air and Hazardous Materials Division, EPA, Region X, May 1, 1979.

basis during the burning season and every sixth day during the off-season. The four Lane County sites would be operated by Lane Regional Air Pollution Authority through in-kind services. The sampling equipment purchased last year would be operated with little change. It is recommended that \$45,792 from field burning R&D funding be allocated for operation of the network each of the next two years, with Federal funds (\$51,045 annually) providing the balance of costs.¹ (See Appendix B, pages 1-5.)

In addition, in response to SIP revision requirements, considerable work is underway to refine and evaluate, through computer modeling, the potential effect of alternative field burning practices in reducing air contaminant levels in the Willamette Valley. The Livermore Regional Air Quality (LIRAQ) model is being adapted for application to the Willamette Valley airshed for this purpose. Field burning R&D funds have been set aside and identified for carry-over into the coming biennium for transfer of the model to the DEQ, and its in-house verification and use.

The potential benefits of reducing the amount of acreage which is burned annually, such as through enforcement of an acreage limitation, have received a considerable amount of attention; an alternating burn-year program is currently under study. However, consideration should also be given to not only how much is burned, but in what way and under

¹ Note: the Research Planning Subcommittee recommended that the contribution from field burning R&D funds to operate the network should be reduced to one-quarter the total amount required (\$22,500), the remaining amount to be derived from other sources. This recommendation was based on the reasoning that field burning is only one source of pollution and because results from the network will probably ultimately be used to develop comprehensive strategies for control of many sources, other sources should contribute to its cost.

what conditions. Improvement of the actual burning operation, a refinement of the components which determine the "success" of that burn, may be of even greater importance in reducing downwind impacts from field burning. The smoke management program, which controls burning on a daily meteorological basis throughout the summer season, already incorporates many of these general kinds of considerations through its operating rules, and indeed, improvement and refinement of the operation has played a significant role in reducing intrusions into major urban areas. The role of additional site-specific factors, however, such as the conditions of the field at the time of burning and the ignition methods used, also play an important role in determining local impacts.

Several major research projects were implemented last year to better characterize the role of meteorological and field conditions, and lighting methods, in determining downwind field burning exposures. Emission impact characteristics at both the micro- and meso-scale were studied. The Field Burning Emissions Testing program generated a great deal of information on the amount of particulate produced per pound of field residue, under certain burning conditions. The elemental composition of that particulate was also determined. Concomitantly, the Plume Evaluation Study generated information on the large-scale "behavior" of the smoke mass, or plume, as a function of the various environmental conditions and lighting techniques. The dynamics of particle size within the plume, and the dispersion and/or downwind movement of the plume was of particular interest.

Findings from both of these efforts lead to the following conclusions:

1. Straw and stubble moisture and, to a lesser extent, fuel loading are significant factors in determining emissions from a given field;
2. The difference in emissions rates for annual and perennial ryegrass fields generally appears to be negligible for each burning method tested. Overall, however, emission rates greatly exceeded those of previous studies, which probably reflect refinements in the sampling techniques used.
3. Backfiring, as a burning method, appears to produce fewer emissions at the field than headfiring or perimeter burns, though the low-level, downwind exposure resulting from a backfire burn is significantly greater than that from the other burning techniques.
4. Rapid-ignition methods of burning, with their inherent benefits in plume rise, appear to offer promise as a tool for reducing impacts from open field burning.

At this time, however, significant information gaps do exist regarding:

1. the difference between grass species and the effects of residue compaction and regrowth in determining emission rates and plume rise capability;
2. the emission rates and plume behavior characteristics of strip-lighting compared to other ignition methods; and
3. the specific capabilities and limitations of rapid-ignition techniques from the perspective of implementation through smoke management.

In addition to there being a general interest in obtaining this information for the purpose of developing alternatives to field burning, there

is another concern. This relates to the State Implementation Plan (SIP) revision process regarding field burning rules, as previously mentioned. Proper documentation of the potential air quality impacts resulting from an authorized increase in field burning acreage must be accomplished prior to the 1980 field burning season. The development of an accurate and acceptable modeling capability is specifically important at this time (see discussion of LIRAQ verification project above). The immediate need for additional emissions testing in 1979, however, is still unknown, though that and other information related to smoke management rule refinement may ultimately be necessary to support future rule changes.

In light of these considerations, it is recommended that both a Field Burning Emissions Testing program and a plume evaluation study emphasizing rapid-ignition techniques be given first-priority status for the coming biennium. The emissions testing, barring any immediate indications to the contrary by the EPA, is recommended for implementation the second year. It will essentially be a continuation of last year's project with emphasis on striplighting and the specific effects of varying grass types, regrowth and straw compaction, information which, due partly to inclement weather was not fully realized from that previous effort. The Department has ordered the necessary sampling equipment in the event that implementation of the project this summer is deemed necessary. (See Appendix B, pages 6-7.)

The plume evaluation study is recommended for first-year implementation, however, due to the immediate need for that information (see discussion of Custom Burn Crew below) and its potential for significant short-term

payoffs through improved smoke management. The proposed project will follow-up and expand upon last year's efforts with an emphasis on the applicability of striplighting and various other rapid ignition techniques from a smoke management perspective. Analysis of the specific field and meteorological factors which limit optimum plume rise and dispersion will be made, with additional consideration to be given to the feasibility of morning and evening burning, and the practicability of various burning strategies from the farm operation perspective. Long-distance downwind impacts from smoke plumes will be a major emphasis. Continuation of this project or related research into the second season will depend on results from the first year, and is recommended to be designated as "open" at this time. (See Appendix B, page 8.)

The logical extension of research into the applicability of rapid ignition techniques would be field-scale demonstrations of the practicability of these methods. Special considerations could be given to their effectiveness in critical areas, such as near highways, schools, or urban centers. The question of the safety of rapid ignition has long been a concern and this could also be addressed. It is, therefore, proposed that a Custom Burning Crew be organized and operate during the second season to demonstrate to the grower community the feasibility of rapid-ignition techniques as a safe and effective method of open field burning. A secondary objective would be to provide effective burning in certain critical areas and times. Use of such crews to provide additional manpower during the critical harvest period may be appropriate. Findings from the "Applicability" study (first season) regarding the benefits of morning vs. evening burning, or lighting

patterns which affect optimal plume rise, etc., should be incorporated into the daily burn crew operations. Detailed accounting of costs of operation should be maintained and made public so that, if feasible, continuation in subsequent seasons by the private sector can be promoted. (See Appendix B, page 9.) Currently, the financial risks appear to be the major obstacles to professional burn crews operating here in the Willamette Valley.

Two additional projects are recommended at this time for first-priority, first-year funding. A Smoke Management Systems Analysis is proposed as a means of improving the operation and organization of the program. Improvement in communication between the various levels of control, for example, has been shown to play an important role in the success of the program. Additional operational refinements through a systems analysis of the program could have major benefits in improving its effectiveness. Second year funding should be designated "open."

It is also recommended that emissions testing of the crew-cutting machines be performed as a screening measure prior to making additional long-term commitments to its development. Commensurate with findings from the air quality monitoring network that dust particles constitute the major portion of the Valley's air contaminants, measurement and characterization of dust generated by the crew-cutter under various field conditions should be implemented as soon as possible. The costs of testing are expected to be minimal yet the information is critical to assessment of the crew-cutter as a viable alternative.

Smoke Management and Air Quality Research -
First Priority Projects

	1979-1980	1980-1981
<u>Air Quality Monitoring Network (DEQ)</u>	\$ 45,792	\$ 45,792
<u>Applicability of Rapid Ignition Techniques (OSU)</u>	89,000	open
<u>Field Burning Emissions Testing (DEQ)</u>	0 [4,275] ¹	35,725
<u>LIRAQ Verification (DEQ)</u>	[23,740]	0
<u>Custom Burn Crew (DEQ)</u>	0	30,000
<u>Smoke Management Systems Analysis</u>	3,000	open
<u>Crew Cutter Dust Emissions Testing (DEQ)</u>	2,500	0
	<hr/>	<hr/>
Total	\$140,292 [\$28,015]	\$111,517

1.2 Agronomy, Marketing, and Utilization Research:

Information needs in the area of agronomy (alternative sanitation methods), straw marketing, and utilization are quite varied. In order to adequately evaluate any "reasonable and economically feasible" alternative to open field burning, the expected economic impact, from reduced seed yields, for example, must be considered along with benefits of reduced pollutants. The general need to burn from an agronomic and economic perspective is well documented; however, the degree to which each grass type can accommodate reduced burning is not well understood. It has been suggested that since a significant proportion of all grass seed fields are not burned each year, an agronomic survey of these

¹ Brackets indicate expected start-up costs to be derived from 1977-1979 (current) budget.

fields could be a reliable and expedient approach to answering these questions. Assuming that the logistics of accomplishing such a survey on a large-scale, field-by-field basis could be worked out, the role of natural and man-induced variables could not be controlled or ascertained on either a short- or long-term basis. An approach similar to this, though on a reduced scale, was in fact initiated (see Effects of Not Burning and Experimental Burning, p 20), and because of these considerations, it was deemed unsuccessful and not recommended for continuation.

A controlled, long-term experimental approach to this problem is needed to form a more reliable foundation for designing alternative control strategies. A scheduled five-year research effort to monitor the agronomic and economic effect of various combinations of cropping and less-than-annual burning treatments was initiated last year in coordination with an analysis of crew-cutting as an alternative sanitation method. Replicate plots of annual and perennial ryegrass were established to determine the long-term changes in seed yield and weed, pest, and disease infestation. Preliminary (one year) results are hopeful with regard to crew-cutting, though more meaningful information will be available later this year. This project should be continued and expanded during the next two years to include consideration of additional grass varieties, soil types, stand conditions, and treatments which best reflect conditions typical throughout the Valley. (See Appendix B, pages 10-12.)

In addition, two other projects are recommended as logical follow-up research to both field burning emissions testing and rapid ignition

applicability studies which are proposed for implementation this coming biennium. These projects are directed to determining the inherent agronomic effects of using various lighting techniques. Potentially, the different thermal properties of backfiring, headfiring, strip-lighting, and variations of each, could result in significant differences in the potential for burn-out, seed-yield stimulation, and weed, pest, and disease control. Acknowledging that an experimentally intensive effort in this area could be prohibitively expensive, two less costly projects are proposed. One project, directed to determine the agronomic effects specifically of striplighting could easily be incorporated into the Less-Than-Annual Burning project as an extension of that project. Modification to the sanitizer, which is now used to accomplish an even burn on the sample plots, could be made to simulate the average temperature profile of striplighting burns.

Measurements of the various agronomic parameters already being monitored, under controlled conditions, as part of that project, could be made in this way. Work should continue for at least two years.

A second project would entail on-site inspection, by an extension agronomist, of various fields which were test burned for experimental purposes last summer. This would offer an informal assessment of the general health of the stand for comparison of areas on the same field which were test-burned using backfire and headfire techniques. This work should be initiated the first season and thereafter reviewed for continuation.

Informational needs in the area of straw utilization and straw marketing have not yet been finalized. A final report of a marketing analysis by Battelle Northwest is due in June, the results of which will help direct R&D funding into the areas of greatest promise. A range of markets will be screened in that analysis, with more detailed promotion-oriented work planned for those few markets showing the greatest potential, or least disadvantage, for development. Funding has been apportioned for research in both utilization and marketing so that when results from the Battelle report become available, the necessary follow-up work can be initiated. During the first year, work should focus on resolving the key or critical technological problems which have been identified for straw utilization. During the second year, research should be continued in this area, and funding for market development and assistance should be initiated.

Research on the development of alternative crops has generally received very little attention in the past, although it is specified by law as an area for study. This is partly because very few, if any, alternative crops have shown much promise as being economically viable under the Willamette Valley's poor growing conditions. In addition, the long-term nature of basic research in this area (i.e., developing and testing new varieties, cultivation treatments, and equipment) has not met the criteria for priority funding under the field burning R&D program.

The feasibility of Meadowfoam as an alternative (oil) seed crop for the Willamette Valley has recently become the subject of considerable

attention, due to the increasing market demands for a high-grade industrial lubricant to replace sperm-whale oil, which is no longer available. Meadowfoam oil is also a source of high quality solid wax, fatty alcohols, and long chain fatty acids. Agronomically, Meadowfoam (Limnanthes alba Benth) is well suited to the poorly-drained soils of the Valley since it is native to the region. There are no residue disposal problems associated with its cultivation, and significant advances in seed production, harvesting techniques, and breeding have been accomplished in recent years.

Market development efforts for Meadowfoam oil were initiated recently by Bohemia, Inc., in cooperation with Oregon State University and the Pacific Northwest Regional Commission. Seed was purchased for oil extraction, and small samples of the raw oil were distributed among many industrial firms for evaluation of both its performance and value. The response was quite favorable and there have been additional requests for larger quantities of oil which cannot yet be met. Currently, there is no reserve seed available.

The proposed project would provide additional acreage of Meadowfoam necessary to produce more raw oil for experimental use in industry. Per acre costs of production will be determined. Bohemia, Inc., will cooperate with OSU in providing for both the extraction and distribution of the oil, and the technical information received from the users will be made available to the Department and the Committee. Concurrent with this project will be a small-scale marketing analysis of the economic value of Meadowfoam oil as a source of its various products. (See

Appendix B, pages 13-15). Work should be initiated the first year, and continued into the second year pending the results of those efforts.

Agronomy, Marketing, and Utilization Research -
First Priority Projects:

	1979-1980	1980-1981
<u>Crew-Cutting/Less-Than-Annual Burning Experiment (OSU)</u>	\$ 60,720	\$ 30,000
<u>Less-Than-Annual Burning Experiment Extension (OSU)</u>	2,500	8,000
<u>Straw Utilization Projects</u>	35,000	25,000
<u>Straw Marketing Projects</u>	0	25,000
<u>Meadowfoam Feasibility as Alternative Crop (OSU)</u>	25,000	open
<u>Agronomic Monitoring of Backfire/ Headfire Test Burns</u>	1,000	open
	Total	\$ 88,000
	\$124,220	

1.3 Health Effects Research

Informational needs in the area of the health effects of field burning are extensive. Research accomplishments to date have been limited, in part due to the complexity of the issue. Information generated by the Breathmobile study, a statistical analysis of lung function data collected from residents from all areas of the state, has provided some needed base-line data for future use, but is otherwise inconclusive. Tests of the chemical constituents and mutagenicity of field burning smoke have also been performed but need some additional work. An extensive Valley-wide air quality sampling effort implemented last year has greatly improved current knowledge of the role of field burning,

and other sources, in contributing to local pollutant concentrations; however, a similarly intensive approach to monitor health response has not been initiated.

The problems associated with studying the health effects of air pollutants are vast. In an epidemiological approach, for example, controlling or quantifying current and past exposures for individuals is necessary but extremely difficult. Air quality data, as well as information on smoking habits and occupation and domestic exposures, is not easily obtained or very reliable. Large groups of individuals representing all segments of the population should be studied including both normal subjects and those who are particularly sensitive to respiratory illness. And, of course, a wide range of specific health responses should be considered.

Field burning, as a specific source of pollutants, presents some additional problems for study. First, since it is predominantly composed of the fine (smaller-sized) particulate, reliable correlations cannot easily be made with data from the general literature, which is, for the most part, based on Total Suspended Particulate (TSP). Second, since field burning is a comparatively small, seasonal contributor to annual pollutant concentrations in the Valley, the health effects which may be specifically associated with it, especially those of a chronic nature, are difficult to distinguish from the "background" of pollution derived from other sources. Third, the transient nature of field burning smoke during typical intrusions (that is, high concentrations of short duration) is difficult to characterize from an

experimental perspective. Fourth, due to improvements in recent years in the smoke management program, areas which have traditionally received frequent and severe smoke intrusions are now protected, and future improvements in other areas are also anticipated. This is unfortunate, from an experimental standpoint, in that distinct control and study areas may not be available, and securing an ample number of data points during any one season may be difficult. Finally, the visible and controversial nature of field burning presents potential for bias at the complaint-and-detection level.

Based on these considerations, design and implementation of a reliable analysis of the health effects of field burning for the purpose of developing control criteria and/or state standards, would necessarily require an intensive and extremely expensive research program. Any effort less than this would be inadequate to support such controls. Also, any major research effort which does not include consideration of other pollutant sources could not realistically be justified either.

It therefore seems reasonable at this time to continue with preliminary research on the "scope" of the public health problem represented by field burning and, to the extent possible, slash burning practices in the Willamette Valley. Such studies should not only indicate the severity of the problem, but should also generate information which can ultimately be used to help design, implement, and then evaluate the results from a major epidemiological study. Various approaches for preliminary research are being considered. These include, but are not limited to, 1) a survey of local hospital admittance records for the

past several summers to determine changes in admission rates, for a variety of complaints and illnesses, during and following periods of severe intrusions, 2) a statistical survey of selected panelists for their professional judgment of the specific risks to health from a range of intrusion scenarios (Delphi approach), and 3) an analysis, through diary or phone call surveillance, of respiratory illness or attacks of a small selected study group of asthmatics. It is difficult to determine an appropriate schedule for funding research in this area, since specific projects have not yet been finalized. Some funding should be provided for first-year work along with some carry-over monies, and additional funding should be allocated for the second year for additional follow-up work or as a partial contribution to a major epidemiological study.

Health Effects Research -
First Priority Projects:

	1979-1980	1980-1981
<u>Preliminary Health Effects Study and/or Workshop for Design of Major Study</u>	\$ 10,000 [6,000]	\$ 0
<u>Extensive Follow-Up Health Effects Research</u>	0	70,000
Total	\$ 10,000 [\$6,000]	\$ 70,000

2. Needed Information of Second Priority:

Information deemed to be of second priority to attainment of program goals includes those projects which do not fully satisfy the established

evaluation criteria, though the information they would generate may be of some interest at some point in time. With regard to smoke management and air quality research, additional analyses of data from the air quality surveillance network may be desirable in the future in order to derive the most information from that initial investment. Though no specific needs are recognized at this time, funds should be allocated, if available, when such a need is demonstrated. Also, additional funding of a smoke management improvement workshop should also be considered, the purpose of which would be to allow an exchange of information on managing techniques with operators of similar programs in other states. As an alternative to sponsoring a workshop, field burning staff could travel to other areas and observe other programs in operation.

In the area of agronomy, marketing, and utilization, only one project has been identified as being of interest for second-priority funding; that is, a review study of the range of potential alternative crops which can be grown in the Willamette Valley. Such a review is needed to better evaluate future alternative crop development efforts. Both the technical and economic considerations which are necessary for each crop should be included in the review, along with an identification of the key limiting factors which should be monitored for change in the future. A consideration of the social-cultural constraints of switching from grass seed farming to another agricultural operation should also be included.

Finally, another area of research which has received a growing amount of attention in the recent past is that of the range of potential

environmental and economic impacts which could result from implementation of various field burning control scenarios and/or alternative strategies. Changes in land use patterns in the Valley can be expected as a response to increased regulatory pressures. Various environmental trade-offs will also likely occur should grass seed farming be replaced on a large scale by more intensive agricultural operations. Although the design and base-line informational requirements for such a research project(s) have not yet been worked out, ground-level design work should be initiated by the staff this biennium as specific needs are identified. (See Appendix B, page 16-20, for a discussion of research needs in this area.)

Second Priority Research Projects:

	1979-1980	1980-1981
<u>Additional Network Data Analysis</u>	\$ 10,000	\$ 10,000
<u>Smoke Management Techniques Improvement (DEQ)</u>	6,000	0
<u>Alternate Crops Review (OSU)</u>	7,000	0
<u>Comprehensive Environmental Impact Assessment of Alternative Field Burning Strategies</u>	0	open
Total	\$ 23,000	\$ 10,000

3. Needed Information of Third Priority:

Projects which have been designated third priority are those which have been proposed but are not considered appropriate for R&D funding at this time. A program for determining an accurate running account of the total acreage burned during the season was proposed using periodic satellite photography of the Valley. It was thought that

this information might help direct smoke management activities in particular areas of the Valley. Upon evaluation, this project was not deemed appropriate for R&D funding.

A proposal for additional work by originators of the Collett-Hansen Fireline System for rapid ignition was also reviewed. Specifically, this project would design and construct two modified "drag-line" machines which could then be used for testing or demonstration. Though last year's experiments with the system proved rapid ignition to be an effective lighting method, problems of cost and practicability with that particular system were noted. It was therefore determined that a cost-intensive engineering effort to design and construct improved drag-line machines could not now be justified.

Finally, a project which proposed to test the feasibility of grass straw as a mulch for strawberry crops was reviewed and deemed to be inappropriate at this time since only a small amount of straw could ever be used for this purpose.

Third Priority Research Projects:

	1979-1980	1980-1981
<u>Burned Acreage Surveillance</u> (DEQ or ERSAL-LANDSAT)	\$ 15,000	\$ 0
<u>Collett-Hansen Fireline Rapid Ignition System</u>	0	open
<u>Strawberry Mulch Utilization</u>	8,850	0
Total	\$ 23,850	\$ open

PROPOSED
FIELD BURNING RESEARCH AND DEVELOPMENT
PLAN 1980 - 1981

	1977-1979		1979-1981
Total Revenue Available 1977-1979	\$1,487,176	Projected Revenue from Registration Fees:	\$ 400,000
Overhead	(123,106)	Burning Fees :	750,000
Smoke Mngt Program	<u>(348,937)</u>	Federal Support Monies	<u>104,761</u>
			1,254,761
R&D Funds Avail. 1977-79	1,015,133	Overhead	(115,000)
R&D Administration	(84,299)	Smoke Mngt Program	<u>(308,468)</u>
Vouchered & Encumbered	(822,166)		
Possible Add'l Expenditures through 6/79	<u>(34,015)</u>	R&D Funds Avail. '79-'81 Fee Monies	831,293
Carry Over Funds	\$ 74,653	Carry Over from 1977-79	<u>74,653</u>
		Total	905,946
		R&D Administration Contingency	(110,458) <u>(100,000)</u>
		Projected Total R&D Project Funds Available 1979-81	\$ 695,488
		(apporioned \$297,744 1st yr, \$397,744 2nd yr)	

<u>Projects</u>	<u>Vouch'd & Encumb'd Thru 6/79</u>	<u>Possible Add'l Exp. Thru 6/79</u>	<u>Projected Costs 1979-80</u>	<u>1980-81</u>
Implemented 1977-79 plus Proposed(*) 1st Priority Projects 1979-81:				
* AQ Monitoring Network	427,623	-----	45,792	45,792
Sanitizer Operation ('77)	18,438	-----	-----	-----
Aerial Sampling ('77)	8,000	-----	-----	-----
Sanitizer Monitoring Effects ('77)	5,000	-----	-----	-----
FMC Sanitizer Analysis	92,000	-----	-----	-----
Effects of Not Burning	2,727	-----	-----	-----
* FB Emissions Testing	53,954 55,315	4,275	0	35,725
Tracer Study	21,546	-----	-----	-----
Plume Evaluation	47,170	-----	-----	-----
LIRAQ Verification	0	23,740	-----	-----
Fireline Rapid Ignition	5,240	-----	-----	-----
Fungal Growth Inhibitor	6,890 3500	-----	-----	-----
* Health Effects	7,200	6,000	10,000	70,000
* Crew-Cutting/Less-Than-An'l Brng. Exp.	94,978	-----	60,720	30,000
* Less-Than-Annual Burn Extension	-----	-----	2,500	8,000
* Straw Marketing	32,000	-----	0	25,000
* Straw Utilization	-----	-----	35,000	25,000
* Application of Rapid Ignition	-----	-----	89,000	open

* Custom Burn Crew	-----	-----	0	30,000
* Smoke Mngt Systems Analysis	-----	-----	3,000	open
* Crew-Cutter Dust Emis. Testing	-----	-----	2,500	0
* Meadow Foam Feasibility	-----	-----	25,000	open
* Agronomic Monit. of Test Burns	-----	-----	1,000	open
Totals	822,166	34,015	274,512	269,517

Proposed 2nd Priority
1979-81:

Add'l Network Data Analysis	-----	-----	10,000	10,000
Smoke Mngt Techniques Improvement	-----	-----	6,000	0
Alternate Crops Review	-----	-----	7,000	0
Comp. Env. Impact Assess. of FB Alter.	-----	-----	0	open
Totals	0	0	23,000	10,000

Proposed 3rd Priority
1979-81:

Acreage Surveillance	-----	-----	15,000	0
Strawberry Mulch	-----	-----	8,850	0
Fireline Rapid Ignition	-----	-----	0	open
Totals	0	0	23,850	0

PROPOSED FIELD BURNING RESEARCH AND DEVELOPMENT PLAN 1979-1981

Estimated projects costs for first and second year are best available projections for 1979-1981 biennium funding. Cost figures in brackets indicate expected start-up costs to be derived from 1977-79 (current) budget. The designation "open" in the second-year column indicates a potential need for continued research in that particular project or study area, pending review of the results from first-year work. A budget summary statement is attached.

FIRST-PRIORITY PROJECTS

Smoke Management & Air Quality Research	79-80	80-81	Agronomy, Marketing & Utilization Research	79-80	80-81	Health Effects & Other Research	79-80	80-81
<u>AQ Monitoring Network (DEQ)</u> ¹ continuation with 7 sites	45,792	45,792	<u>Crew-Cutting/Less-Than-Annual Burning Exp. (OSU)</u> continuation, monitoring agronomic & economic effectiveness of crew-cutting and non-annual open burning for additional species & environmental conditions (multi-year)	60,720	30,000	<u>Preliminary Health Effects Research & Planning</u> study design not yet finalized, plus possible workshop planning session (1st yr). Implementation of major epidemiological study (2nd yr), figure represents grower's contribution	10,000	70,000
<u>Applicability of Rapid Ignition Techniques (OSU)</u> determine meteorological limitations and plume dispersion capabilities of rapid ignition and strip-light methods from smoke management perspective	89,000	open	<u>Less-Than-Annual Burning Exp. Extension (OSU)</u> to include monitoring of agronomic effects of (simulated) striplight burning	2,500	8,000	[6,000]		
<u>FB Emissions Testing (DEQ)</u> ² continuation with emphasis on striplighting, additional grass types, and to fill info. gaps on regrowth, compaction, etc. (subject to subsequent review)	0	35,725	<u>Straw Utilization Projects</u> development of critical technologies pending Battelle analysis	35,000	25,000			
<u>Custom Burn Crew (DEQ)</u> 1 yr. demonstration of feasibility of custom burning operation, cost analysis included, for private sector take-over in subsequent years. To provide safe & effective rapid ignition burning in critical areas	0	30,000	<u>Straw Marketing Projects</u> follow-up R & D funding for market development & assistance, pending Battelle analysis	0	25,000			

Smoke Mngt Systems Analysis (DEQ)

3,000 open

contractor to review & improve program operation & organization

Crew-Cutter Dust Emissions Testing (DEQ)

2,500 0

test stack and possibly fugitive dust emissions generated by crew-cutting under various environmental conditions (costs may vary depending on availability of personnel & testing equipment in coordination with FB Emission Testing Program)

LIRAQ Verification (DEQ)³
transfer & in-house verification of computer model

[23,740] 0

Subtotals 140,292 111,517
[28,015]
[23,740]

Meadow Foam Feasibility as Aternative Crop (OSU)⁴

25,000 open

demonstration project to assist cultivation & production of crude seed oil for determination of marketability through user survey (quality, value, uses), concurrent marketing analysis of oil products value

Agronomic Monitoring of Backfire/Headfire Test Burns

1,000 open

on-site inspection by extension agent of test-burned fields for informal weed, disease, and stand analysis

Subtotals 124,220 88,000

Subtotals 10,000 70,000
[6,000]

¹Total projected annual cost \$96,837 (\$51,045 Federal monies plus \$45,792 field burning fee monies).

²Start-up costs of approx. \$4,275 required, to be derived from current ('77-'79) funds, with possibly an additional \$2,850 costs should project be implemented first year (summer, 1979).

³Funds allocated and available through carry-over from 1977-1979 budget.

⁴Project represents considerable cooperative effort by Bohemia, Inc.

	<u>1st yr</u>	<u>2nd yr</u>
Total	274,512	269,517
	[34,015]	
	[29,740]	

Total (1979-81 biennium) 544,029

SECOND-PRIORITY PROJECTS

Smoke Management & Air Quality Research		79-80	80-81	Agronomy, Marketing & Utilization Research		79-80	80-81	Health Effects & Other Research		79-80	80-81
<u>Additional Network Data Analysis</u>		10,000	10,000	<u>Alternate Crops Review(OSU)</u>		7,000	0	<u>Comprehensive Environmental Impact Assessment of FB Strategies</u>			0 open
any additional statistical analysis of AQ data deemed necessary				technical and economic survey (update) of potential for alternative crop development in Willamette Valley (includes evaluation of social components)				determine environmental/land use trade-offs of current vs. alternative FB strategies, possible additional LIRAQ modeling			
<u>Smoke Management Techniques Improvement(DEQ)</u>		6,000	0								
workshop or travel to discuss & observe SM programs in other areas											
Subtotals		<u>16,000</u>	<u>10,000</u>	Subtotals		<u>7,000</u>	<u>0</u>	Subtotals		<u>0</u>	<u>open</u>
								Total		<u>23,000</u>	<u>10,000</u>
								Total (1979-81 biennium)			33,000

THIRD-PRIORITY PROJECTS

Smoke Management & Air Quality Research			Agronomy, Marketing & Utilization Research			Health Effects & Other Research		
	79-80	80-81		79-80	80-81		79-80	80-81
<u>Burned Acreage Surveillance</u>	15,000	0	<u>Strawberry Mulch Utilization</u> (N. Will. Exp. Station)	8,850	0			
DEQ or ERSAL-LANDSAT surveillance for periodic accounting of acreage accomplishments during season			demonstration of feasibility of straw as mulch for commercial strawberry crops, determine costs, agronomic effectiveness and capability with new harvesting techniques					
<u>Collett-Hansen Fireline Rapid Ignition System</u>	0	open						
design and construct two "drag-line" machines								
Subtotals	<u>15,000</u>	<u>0</u>	Subtotals	<u>8,850</u>	<u>0</u>	Subtotals	<u>0</u>	<u>0</u>
						Total	<u>1st yr</u> 23,850	<u>2nd yr</u> open
						Total (1979-81 biennium)	23,850	

APPENDIX A

Statement of Program Organization

Statement of Program Organization

The following is intended to serve as a formal description of the organizational structure and responsibilities of the DEQ Field Burning Staff, the Advisory Committee on Field Burning, and its associated subcommittees.

The Department of Environmental Quality was granted the duties, functions, and power of the Oregon Field Sanitation Committee by the Legislature in 1977. Specifically, the Department, with the advice and assistance of the Advisory Committee, was mandated to

"adopt and implement programs for study, research, and development of reasonable and economically feasible alternatives to the practice of open field burning, such programs to include, but not be limited to:

- (A) Utilization and marketing of crop residue;
- (B) Research on development of alternate crops;
- (C) Research on improvement of air quality and smoke management;
- (D) A study of methods of field sanitation and the economic, agronomic, and environmental effects of mobile burners and other alternatives;
- (E) Research on development of alternate weed, pest, and disease control; and
- (F) Research on the health effects of open field burning."

The Department was also specified to monitor and study the impact of open field burning on air quality in the Willamette Valley.

The Advisory Committee on Field Burning was created by the Legislature in 1977 to "aid and assist the Department in conducting" specified research and development programs. The Committee consists of five members, one each appointed by: the Director of the DEQ, representing the Department; the Dean of the School of Agriculture at OSU, representing the University; the Director of Agriculture, representing agriculture; the Governor, representing the public; and, the Director of the Economic Development Department, representing that Department. Members are appointed for a two-year term.

For the purpose of improving its effectiveness the Advisory Committee has established several specific subcommittees to assist in designing and development research in the various study areas mandated by law. Subcommittee members are appointed by the Advisory Committee based on their qualifications and expertise in a particular field. One Advisory Committee member serves as liaison on each subcommittee.

At the present time, there are three subcommittees to the Advisory Committee:

1. Agronomy, Marketing, and Utilization Research Subcommittee (formerly the Research Planning Subcommittee).

Objective: To evaluate, design, and develop research into: the utilization and marketing of crop residues; alternate crops and alternate weed, pest, and disease controls; and the agronomic and economic effects of alternate sanitation methods.

2. Health Effects Research Subcommittee

Objective: To evaluate, design, and develop research into the effects of field burning on public health.

3. Emissions Testing Subcommittee (formerly the Machine Testing Subcommittee)

Objective: To evaluate, develop, and design research into the characterization of emissions from field burning and alternative sanitation methods.

The formation of a fourth subcommittee is currently being considered:

4. Smoke Management and Air Quality Research Subcommittee

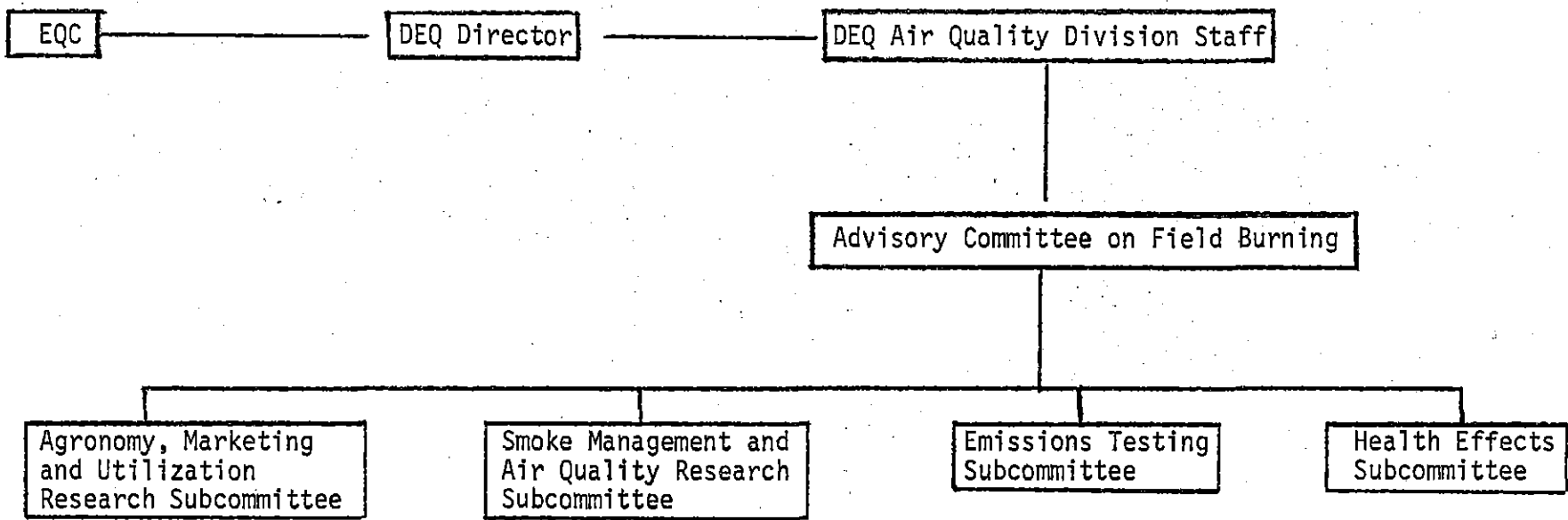
Objective: To evaluate, design, and develop research into the improvement of air quality through improved smoke management techniques.

In addition to their duties in designing research projects and evaluating submitted research proposals, the subcommittees are responsible for developing research priority schemes based on research needs, developed evaluation criteria, and the availability of resources to do that work.

In practice, the Department field burning staff works closely with, and coordinates the activities of, the individual research subcommittees. Specifically, the staff:

1. reports subcommittee actions and recommendations to the Advisory Committee for comment and evaluation;
2. In association with the Advisory Committee, coordinates these priority schemes into a program priority list which will serve as the basis for approving proposed projects and evaluating new proposals; and
3. implements approved research projects which includes: preparation of requests-for-proposals, contracts, and agreements; tracking project progress and expenditures; and distributing reports.

In addition, the Department reports annually to the Legislative Committee on Trade and Economic Development on progress being made in finding and utilizing alternatives to open field burning.



1. Identify and develop most feasible alternative sanitation methods.
2. Identify and assist development of most promising straw markets.
3. Identify research needs in areas of alternate crops and alternate weed, pest, and disease control.

1. Assist in identifying technical information gap.
2. Assess and improve smoke management program.
3. Assist implementation of smoke management program.

1. Identify information gaps on emissions of open field burning and alternative practices.
2. Develop programs for study and provide evaluation of results.

1. Assess available health effects information and identify critical information gaps.
2. Design and implement health effects studies to fill critical information gaps and provide base data for short- and long-term health hazard assessment.

1977-1979

Advisory Committee on Field Burning

Fred Burgess, Chairman
(appointed by DEQ)

Harold Youngberg
(by OSU School of Agriculture)

Tom Hunton
(by Director of Agriculture)

Byron Musa
(by Governor)

Mike Gross
(by Dir. of Econ. Dev. Dept.)

Agronomy, Marketing,
and Utilization
Research Subcommittee
(formerly Research
Planning Subcommittee)

Smoke Management
and Air Quality
Research Subcommittee
(proposed)

Health Effects
Subcommittee

Emissions Testing
Subcommittee
(formerly Machine
Testing Subcommittee)

Harold Youngberg, Chairman

Frank Conklin (OSU)

Dave Chilcote (OSU)

Bruce Meland

Terry Smith (City of Eugene)

Members not yet selected

Byron Musa, Chairman

Harold Osterud (U of O)

Miles Edwards (U of O)

James Morris (Vets. Hosp.)

V. H. Freed (OSU)

Lyle Calvin (OSU)

Clifford Hall (Corv. Clinic)

Mike Gross, Chairman

Dale Kirk (OSU)

Marvin Ringsdorf

Richard Boubel (OSU)

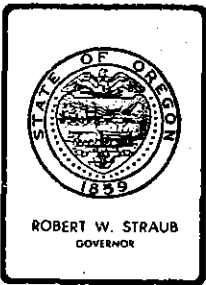
Jim James (American Can)

Note: Air Monitoring Subcommittee was disbanded

APPENDIX B

Description of Selected Individual Projects or Study Areas Proposed for Funding in 1979-1981

Air Quality Monitoring Network	Pp. 1- 5
Field Burning Emissions Testing	Pp. 6- 7
Applicability of Rapid-Ignition Techniques	P. 8
Custom Burn Crew	P. 9
Crew-Cutting/Less-Than-Annual Burning Experiment	Pp. 10-12
Meadowfoam Feasibility As Alternative Crop	Pp. 13-15
Comprehensive Environmental Impact Assessment of Field Burning Strategies	Pp. 16-20



Department of Environmental Quality

ADVISORY COMMITTEE ON FIELD BURNING

16 OAKWAY MALL, EUGENE, OREGON 97401 PHONE (503) 686-7801 7837

March 26, 1979

MEMORANDUM

TO: Advisory Committee on Field Burning

FROM: Scott A. Freeburn

SUBJECT: Continuation of the Field Burning Surveillance Network (Budget Item 1)

Background

In order to meet the requirements of state and Federal legislation requiring the Department to develop control strategies to attain and maintain air quality standards as well as to monitor and study the impact of open field burning on the Willamette Valley, a program design was developed to meet the following specific objectives:

1. Within the South Central Willamette Valley:
 - A) To determine the particulate air quality impact, in relation to air quality standard attainment, of field burning and as many other sources as possible.
 - B) To determine the particulate air quality standard attainment status of areas outside of the Eugene-Springfield AQMA within areas of high density field burning activity or subject to smoke intrusion.
 - C) To determine contributions from field burning and other sources to visibility reduction.
 - D) To provide data on open field and slash burning particulate impact (primarily fine particulate) that will support field burning health effect studies.
2. Other Objectives:
 - A) Determine the impact of field and slash burning on photochemical oxidant air quality.
 - B) Develop particulate air quality and meteorological data bases to assist dispersion modeling programs needed to evaluate alternate control strategies and improve smoke management.



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- C) Provide a preliminary survey of field and slash burning impact on visibility reduction within Mandatory Class I Prevention of Significant Deterioration areas.
- D) Development of monitoring capabilities that can be optimized to form the basis for an on-going, routine monitoring program designed to track field and slash burning (as well as other sources) impact within the Willamette Valley.

The 1978 network consisted of ten sites, each equipped with rather sophisticated particulate sampling equipment, arranged to monitor field burning smoke impacts particularly in the southern Willamette Valley. The monitoring equipment operated on a daily schedule from June through mid-November and has been operating on an every-sixth-day schedule since that time. The Advisory Committee has, to date, approved the following expenditures related to establishment and operation of and analysis of data from this network:

Personal Services	\$149,708
Services and Supplies	<u>69,837</u>
	\$219,545

Preliminary results from the June through mid-August sampling period have been made available covering about 70% of the acreage burned during 1978. The contractor summarized the results as follows:

1. On a valley-wide basis, field burning has little significant impact on the airshed's particulate mass or composition. Localized impacts can, however, be substantial for short time periods.
2. Field burning under the 1978 smoke management plan has not been found, thus far, to have a great enough impact on total particulate mass to cause exceedances of the annual or 24-hour TSP standards.
3. Soils are the predominant component of TSP during the June to mid-August period.
4. The impact of slash burning on valley air quality cannot be fully assessed at this time. This will be evaluated in the final project report.

Discussion

It is proposed to continue, on a reduced scale, the collection of air quality data in the southern Willamette Valley using a portion of the monitoring network installed for the 1978 field burning season.

The monitoring study conducted in 1978 provided at least preliminary answers to program objectives, particularly those with regard to impacts in the southern Valley. However, several factors argue in favor of continued network operation:

1. 1978 was an anomalous burning season (even when compared with the last several summers) resulting in limited burning opportunities. It is, therefore, perceived by some that field burning impacts would be greater under more typical years and have not been accurately assessed by analysis of the 1978 situation.
2. Increases in acreage limitation are being considered by the 1979 Legislative Assembly.
3. Changes are proposed in the smoke management program to reduce impacts in the Lebanon-Sweet Home and other Class II areas. A continuation of monitoring in these affected areas would allow accurate assessment of program adjustments and guide further revisions.
4. Identification of the Eugene-Springfield area's non-attainment problems is contingent upon an accurate measurement of such materials as fugitive dust transported into the area. LRAPA, in trying to determine an intelligent control strategy, believes additional data needs to be collected and analyzed to fully assess the contributions of various sources to their air quality situation.
5. Insufficient data has been collected as a result of running the system for only one season. In particular, additional data is expected to be useful for future health effects study.

From these arguments, objectives of a continuation of the network are as follows:

1. Improvement of the data base relating to field burning impacts so that better analyses can be made and so more than one field burning season (and a different season than 1978) can be assessed.
2. Measurement of the effects of an increased acreage limitation.
3. Measurement of the effects of smoke management program changes.
4. Establishment of the fugitive dust transport phenomenon and eventual effects on Eugene-Springfield.

Network Description

In order to meet these goals a seven-site network is proposed, essentially a scaled down version of last summer's effort. Sites would be continued at Corvallis, Halsey, Lebanon, Coburg, Springfield, Eugene, and Creswell. Sites at

Carus, Salem, and Junction City would be discontinued. Sampling equipment purchased in 1978 would be operated with little change. Specifically, each site would include the following equipment:

Particulate

- High volume - Total Suspended Particulate
- High volume - Size Segregated
- Low volume - Total Suspended Particulates
- Low volume - Size Segregated

Light Scattering

Nephelometer

Meteorological

- Wind Speed
- Wind Direction

Operation and Data Analysis

It is proposed to operate the Corvallis, Halsey, and Lebanon sites everyday during the burning season and every sixth day in the off-season. The Lane County sites would be operated on a similar, at least in-season, schedule and will be maintained by Lane Regional Air Pollution Authority staff.

The Department will provide supplies and analysis of samples for all seven sites. Approximately one-quarter of the collected samples will be analyzed. Selection of samples will be based upon burning activity, smoke impacts of lack thereof, and violation of standards as was the case in 1978. The Department and LRAPA will conduct the basic data reduction, sample measurements, and chemical analyses while analysis and assessment of data will be performed under contract.

Funding

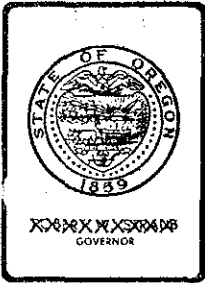
As mentioned above, LRAPA will provide labor and data reduction for the four sites located in Lane County. The Department will maintain the three remaining sites, provide supplies for all sites and conduct or otherwise contract for analysis of samples.

The Department proposes to use a combination of fee monies and Federal funds in addition to LRAPA's in-kind service. Operational costs, to be handled by the Department, are proposed as follows:

	<u>79-80</u>	<u>80-81</u>	<u>Fund Source</u>
Personnel Services	\$51,045	\$51,045	Federal
Services and Supplies	45,792	45,792	Other (FB Fees)
Capital Outlay	0	0	

In addition costs of assessment and analysis of sources based upon sample data will be provided under Air Quality Division funds. Approximately \$15,000 are set aside for this purpose.

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Attachments (2)



Department of Environmental Quality

ADVISORY COMMITTEE ON FIELD BURNING

16 OAKWAY MALL, EUGENE, OREGON 97401 PHONE (503) 686-7601 7837

May 10, 1979

MEMORANDUM

TO: Advisory Committee on Field Burning

FROM: DEQ Field Burning Staff

SUBJECT: Field Burning Emission Testing Activities
(re: memo from SL Erickson, March 7, 1979)

Upon review of 1978 emissions testing results, the Emissions Testing Subcommittee recommended that additional sampling would be useful in supporting the new data and filling some of the information gaps which still exist. During program planning sessions, the Research Planning Subcommittee recommended that the emissions testing projects be deferred to the second season pending subsequent evaluation and discussion of the need for the information it would provide.

The purpose of the emissions testing project would be to 1) verify the emission rate equations developed from the 1978 data, 2) more fully investigate the post-rain burning period emissions, and 3) gather data on other grass types. Based on the experience gained in the project last summer, considerably more data could be obtained in the same period of time due to the development of workable sampling techniques. It will be necessary to purchase some additional equipment for the project, and the Department is currently ordering the equipment in the event that testing this summer becomes an important factor for SIP revision activities.

One important aspect of the sampling not accomplished last year was a quality assurance of the data. This failure was due to nearly constant malfunctions of the CO₂ analyzers. A second analyzer would allow the QA procedures to be done plus give the ability to perform multi-sampler operation necessary in testing strip-lights. Furthermore, since the analyzers have linear output (as opposed to the logarithmic output of the units used last year), recorders with true integrators would greatly improve the accuracy of the system, as well as speed up data retrieval.

The cost of the equipment that must be ordered immediately is:

CO ₂ Analyzer	\$2,800
Recorder	1,200
Pyrometer	275
Impinger	<u>600</u>
Total	\$4,275



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Advisory Committee on Field Burning

Page 2

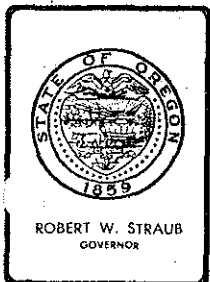
May 10, 1979

Of course, additional expenditures from current funds may also be necessary should the project be implemented this summer. Last year the temporary people in the testing program were hired starting on June 15. The time between hiring and the start of the burn season allows for equipment familiarization and training and is essential to a successful program. Assuming that no work-study people are available, the necessary funds for personnel would be \$1,850. Also, since some of the equipment used last summer will have to be rebuilt, some funding (\$1,000) may be needed for miscellaneous parts and supplies. Therefore, the estimated total start-up costs to get the program operating this coming summer are:

Personnel	\$1,850
Capital Outlay	4,275
Service & Supplies	<u>1,000</u>
Total	\$7,125

Total project costs are estimated to be approximately \$40,000.

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Department of Environmental Quality

ADVISORY COMMITTEE ON FIELD BURNING

16 OAKWAY MALL, EUGENE, OREGON 97401 PHONE (503) 686-7601

May 15, 1979

MEMORANDUM

TO: Advisory Committee on Field Burning

FROM: DEQ Field Burning Staff

SUBJECT: Preliminary Objectives of a Study of
Applicability of Rapid Ignition Techniques

PRELIMINARY WORK OUTLINE

Applicability of Rapid Ignition Field Burning Techniques

Note: a detailed proposal is currently being prepared.

GOAL: Define the range of meteorological and field conditions, and manpower needs, for which various ignition methods can be used safely, practicably, and effectively to reduce air quality impacts from open field burning.

OBJECTIVE: Under given conditions, quantify the improvement (i.e., reduction) in downwind impacts, both in peak concentrations and exposure, available through the use of rapid ignition techniques (i.e., strip-lighting, center-lighting, and perimeter burns), compared to burning techniques currently in use.

OBJECTIVE: Quantify the extent to which the daily burning periods may be expanded through the use of rapid ignition--assuming impacts equivalent to present levels. How does the relative effectiveness of both rapid ignition and methods more typically used change throughout the burning season?

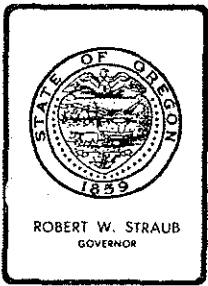
OBJECTIVE: Identify the range of meteorological, field, and fuel conditions under which both rapid ignition and typical methods of burning may successfully be accomplished. What are the effects of stable layer characteristics (stable layer depth, height, and vertical wind profile) on plume-rise effectiveness and long distance downwind plume geometry and dispersion.

OBJECTIVE: Identify the safety hazards and operational limitations to rapid-vs.-typical burning techniques (i.e., manpower requirements, lighting and fire control equipment needed, and the degree of necessary field preparation).

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Department of Environmental Quality

ADVISORY COMMITTEE ON FIELD BURNING

16 OAKWAY MALL, EUGENE, OREGON 97401 PHONE (503) 686-7601

May 15, 1979

MEMORANDUM

TO: Advisory Committee on Field Burning

FROM: DEQ Field Burning Staff

SUBJECT: Custom Burn Crew Project

A custom burning crew project is proposed for implementation during the summer of 1980, to be manned and operated by the Department. The purpose of this project is to demonstrate the feasibility of a custom field burning operation in the Willamette Valley, in addition to providing safe and effective alternative burning methods in critical areas. It is anticipated that findings from the rapid ignition applicability study could be incorporated into the custom burning operations as a means of demonstrating their practicability and effectiveness. Detailed cost analyses of the project will be provided as a demonstration of the economic feasibility of the operation. It is the intent of the Department that this project be limited to a single year, with the expectation that custom burning operations could then be continued by the private sector in subsequent years.

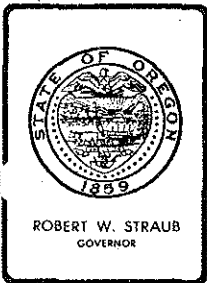
Cost estimates:

<u>Personnel</u>	<u>Cost</u>
5 persons, 3 months each	\$15,000
 <u>Supplies</u>	
2 flatbed trucks (leased)	\$ 6,000
2 pickup trucks (State Motor Pool)	\$ 2,500
water tanks, pumps, torches, etc.	\$ 4,500
 <u>Insurance</u>	 \$ 2,000
	 Total \$30,000

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Department of Environmental Quality

ADVISORY COMMITTEE ON FIELD BURNING

16 OAKWAY MALL, EUGENE, OREGON 97401 PHONE (503) 686-7601

May 15, 1979

MEMORANDUM

TO: Advisory Committee on Field Burning

FROM: DEQ Field Burning Staff

SUBJECT: Crew-Cutting/Less-Than-Annual Burning Experiment

The Crew-Cutting/Less-Than-Annual Burning Experiment in progress at OSU was initiated last year as a multi-year analysis of alternative sanitation methods. The Research Planning Subcommittee has recommended continuation of this project in the 1979-1981 biennium.

The initial progress report submitted last November indicated that the crew-cutter machine performed satisfactorily under many conditions, however some crop damage due to freezing occurred this last winter which may hinder subsequent seed yield determination. A preliminary economic analysis of the crew-cutting operation is being prepared at this time, and an updated report of the findings will be available for review prior to final approval of project continuation.

A brief description of the two projects is provided below.

Long Term Effects of Crew-Cutting on Grass Seed Production

The objective of this research is to evaluate the feasibility of crew-cutting as an alternative to open field burning. This multi-year field study will determine the long-term effectiveness of close-cutting and removal of grass straw (crew-cutting) on grasses grown for seed production. This information will thereby allow us to evaluate this alternative to annual open burning.

To fully evaluate the effectiveness of this procedure, fields for investigation will be selected which have evidence of the type of weed problems that would be expected after several years of limited burning. This type of situation has been selected to represent the field problems expected after several years of seed production under burning restrictions. In addition, methods of removing chaff from the field to avoid and/or minimize weed and disease problems from the threshing operation will be examined in conjunction with the close clip removal system. This will involve the utilization of a chaff collection device attached to the combine. This will be compared to situations where the chaff is not



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Advisory Committee on Field Burning

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collected and where other post harvest residue straw removal techniques are utilized. These experimental techniques will be compared to burning with the sanitizer and to presently available removal methods such as the flail chopper. Equipment needed will be built or modified to apply treatments eight feet in width. Equipment built to this scale will allow for a maximum combination of treatments in a workable plot design, and facilitate harvesting and data evaluation. Plot designs have been kept simple so as to provide accurate estimates of economic data during the crew-cutting operations.

The first year of this program will evaluate the general effectiveness of the crew-cutting machine. Specifically, the closeness of cut and thoroughness of clean-up on several major grass species. Of further interest will be the influence of field conditions (smooth/rough) on the effectiveness of the treatments and problems with dust which may become evident. Also to be initiated in the first year will be replicated plot evaluations on fine leaf perennial ryegrass. The design of this plot shall provide for the identification and quantification of: (a) increase or decrease in seed yield, (b) increase or decrease of weed infestation, (c) increase or decrease of plant disease, and (d) increase or decrease of insect infestation.

In the second year, replicated plots will be expanded to additional grass species planted on soil types representative of major grass growing areas in the Willamette Valley.

The residue removed from the crew-cutting operation may contain considerable amount of soil and would lend itself to an evaluation of residue disposal through decomposition for subsequent return to the field as a goal. This will not be a major effort in this research, but will attempt to evaluate the following at one location: (1) untreated residue, (2) nitrogen added to residue, and (3) nitrogen added plus stirring to aerate residue.

Sampling of the decomposing material for viable weed seed and disease inoculum will be considered in addition to the accelerating effects of treatments on decomposition.

Long Term Effects of Non-Yearly Burning on Grass Seed Production

The objective of this research is to further consider the issue of effectiveness of post-harvest residue removal treatments when they are alternated. The long-term effectiveness of alternating treatments needs to be determined in an effort to estimate the ability to substantially reduce the annual acreage burned.

To fully evaluate the effectiveness of this procedure, fields for investigation will be selected which have evidence of weed problems. It will be necessary to compare the effectiveness of alternating treatments presently available, such as field burning and flail chopping; and alternating burning with the crew-cutting technique, both being compared to field sanitizer used continuously.

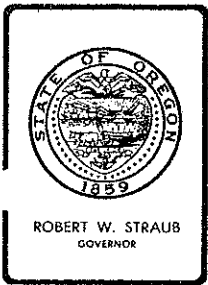
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A five year replicated plot study will be initiated in the first year on annual ryegrass and fine leaf perennial ryegrass, and will be expanded to additional grass species in the second year. The design of these plots will provide for the identification and quantification of an increase or decrease in seed yield, weed infestation, and plant diseases with alternating removal techniques. In addition, the plot design for annual ryegrass will provide information on the effects of stand establishment and herbicide performance or benefit to seed production under non-yearly burning situations.

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Department of Environmental Quality

ADVISORY COMMITTEE ON FIELD BURNING

16 OAKWAY MALL, EUGENE, OREGON 97401 PHONE (503) 686-7601

May 15, 1979

MEMORANDUM

TO: Advisory Committee on Field Burning

FROM: DEQ Field Burning Staff

SUBJECT: Feasibility of Meadowfoam as Alternative Crop Project

The following research proposal for production of a Meadowfoam raw oil supply, for marketing analysis, is the result of considerable discussion and review of this study area by the Research Planning Subcommittee. The Subcommittee has met with the researchers from Crop Science Department proposing to do the work and with representatives of Bohemia, Inc., who have been involved in marketing efforts in the past and are interested in cooperating with us. The Subcommittee recommended that the project be funded since Meadowfoam appears to offer the greatest promise as an alternative crop. It was also recommended that the acreage be increased significantly over that indicated in the proposal, since the amount of technical and economic information generated by the project is only limited by the quantity of crude oil which can be distributed. Though design details have not been formalized, it was recommended that \$25,000 be allocated to the project to cover the costs of the increased acreage, and to include a preliminary economic analysis of Meadowfoam oil bi-products to compliment the crude oil information generated. It is intended that emphasis be given not only to the production of oil, but to the demonstration of the specific cultural practices which are involved, through public tours of experimental plots and perhaps periodic agronomy bulletins.

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Department of
Crop Science



Corvallis, Oregon 97331 (503) 754-2821

M E M O R A N D U M

TO : Advisory Committee on Field Burning, D.E.Q.

FROM : Gary D. Jolliff, Crops Science Department, OSU *G.D.J.*

DATE : March 20, 1979

SUBJECT: PRODUCTION OF A MEADOWFOAM RAW OIL SUPPLY FOR THE ENHANCEMENT OF MARKET DEVELOPMENT RESEARCH

Background Information

Meadowfoam (Limnanthes alba Benth.) is a winter annual herb indigenous to the Pacific Coast states. It is a seed oil source of unique long chain fatty acids. Research by the USDA Northern Regional Research Center at Peoria, Illinois, has shown that this oil has a potential industrial value as a wax ester substitute for sperm whale oil, and a source of high quality solid wax, fatty alcohols, and valuable long carbon chain fatty acids. It is the only crop which currently shows promise as an alternative to annual ryegrass seed production on poorly drained soils in the Willamette Valley. It grows well in standing water, and it does not present a residue disposal problem.

Advances in seed yield, seed retention, uprightness of growth habit to facilitate combine harvesting, agronomic production practices, breeding and selection techniques, and oil extraction have been realized in Oregon during the past 8-10 years primarily through federally funded research. Research to continue this progress is now in jeopardy because of funding limitations.

An important need is for larger volumes of crude meadowfoam oil to supply to industries who are willing to test it for use in their proprietary products and/or production processes. Current requests for supplies of oil cannot be filled.

Market development efforts were initiated in 1978-79 by Bohemia, Inc. in cooperation with Oregon State University and the Pacific Northwest Regional Commission. Bohemia, Inc. purchased 4,000 pounds of meadowfoam seed through contractual production to use

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in the development of oil extraction methods. Samples of the raw oil have been supplied to 60 industrial firms for evaluation. Several industrial users have requested additional oil in lots of 55 gallon drums and multiples thereof. There is no reserve of meadowfoam seed and there is currently no acreage of meadowfoam planted to supply a seed reserve. Funding to plant acreages in October 1979 will yield processed oil in larger quantities by October 1980. The availability of technical information from industry would be expected during 1980 and 1982.

Proposed Project

The primary objective of this proposal is to produce additional acreages of meadowfoam to provide more raw oil for experimental use in industry.

The New Crops Research Project (481) at Oregon State University would be responsible for the seed production and cleaning. Funds to accomplish this work would be provided by the Advisory Committee on Field Burning, D.E.Q.

Bohemia, Inc. would contribute the resources necessary to complete the oil extraction. The raw oil would be made available to industrial users in a manner mutually agreeable to Bohemia, Inc. and the New Crops Research Project. It is anticipated that industrial users will be provided raw meadowfoam oil by agreement to provide Bohemia, Inc. and the New Crops Project with technical information from their research efforts.

Proposed Budget

Within the \$14,000 budget, the following three alternatives are available to the Committee for the production of meadowfoam:

1. Locate fields in three distinct areas on rented land. Total of 5 acres.
2. Locate one rental site to total 8 acres.
3. Locate one production site on Bohemia, Inc. land with no rental cost. Total of 15 acres.

A Discussion of Tradeoff Questions and Research

Needs: Willamette Valley Field Burning

An Outline Prepared by

John A. Jaksch
Economics Program Coordinator
Corvallis Environmental Research Laboratory
Environmental Protection Agency
Corvallis, Oregon

For Presentation at an Informational Hearing of the
Trade and Economic Development Committee
Oregon State Legislature Salem, Oregon

Wednesday, February 28, 1979

I. Introduction and overview

- A. Field burning has been an environmental issue in Oregon for at least the past 15 years.
- B. Millions of dollars have been spent looking for technical and economically viable alternatives to field burning with limited success.
- C. Any enacted legislation or administrative rules and regulations on field burning have tradeoff implications for both the public and private sectors.
- D. My purpose today is to identify and discuss some of the tradeoff questions and research needed to evaluate alternative policy choices.
- E. Measuring private and public (social) gains and losses from alternative air quality control policies necessitates evaluation of the entire spectrum of costs and benefits.
 1. Most studies to date have focused on the private costs (farmer) of options designed to control or limit field burning.
 2. A neglected side of research has been the social costs and benefits of limiting field burning.
 3. Research to evaluate tradeoffs of alternative policy options falls into three broad categories (in most instances need all categories to complete evaluation)
 - a. physical research (air emissions and dispersion modeling, for example)
 - b. effects research (health, soiling, etc.)
 - c. institutional impacts (economic structure of the Valley)

II. Tradeoff evaluation and research needs

- A. Physical research - needed for effects research
 1. Need to know existing sources, amounts, and physical-chemical characteristics of air emissions in the Valley; includes field and slash burning, mobile source emissions, industrial source emissions, etc. DEQ monitoring capability has been expanded, and they appear to be getting a handle on this.
 2. Once we know what is being emitted, we need to know where the pollution is going in and out of the Valley under alternative meteorological conditions in order that its effects (human, biological, physical, etc.) can be determined. An air pollution dispersion model for the Valley is needed to accomplish this. I believe DEQ is working on developing one. (Craig's model at OSU)

- B. Effects research - Knowing amount and kinds of pollutants being emitted, their physical and chemical properties, and relative concentration in the Valley, studies can then be undertaken to determine the effect of pollution upon various segments of the impacted population.
1. Effects research needed to evaluate impacts of proposed or adopted policy choices on field burning and other pollution problems.
 2. Research would include, but not be limited to,
 - a. health effects - includes mortality and morbidity, medical care utilization costs, restricted activity days, etc. Need to link changes in kinds and amounts of pollution to health effects. Need to account for risk of exposure to pollution.
 - b. physical and economic valuation of effects on visibility (Corvallis EPA working on this)
 - c. material damages
 - d. soiling damages
- C. Institutional research - Need to determine existing, underlying economic activity in the Valley in order to assess impacts of alternative policy options for field burning on the Valley economy; i.e., impacts on the agriculture field burning sector will impact other economic sectors in the Valley. In order to accomplish need economic modeling of farm sector economy capable of accounting for impacts of alternative policy scenarios (Frank Conklin's OSU work), and a model of the Valley's economy (input-output model) in order to isolate sector impacts of alternative policy options.

III. Link physical, effects, and institutional research to determine degree to which changes in policy will influence management factors, and, in turn, how changes in the management factors impact various segments of society. Areas of tradeoff considerations for alternative policy choices (including smoke management programs, limitations on acreage burned, etc.) would be as follows.

- A. Human health - What impacts do changes in air quality have on mortality and morbidity (acute and chronic) rates, probability of exposure to different pollutants, demands placed on the medical system (inpatient - outpatient utilization, drug costs, etc.), and reduced productivity (work days lost, restricted activity days)? What socioeconomic groups are impacted by air pollution induced health effects the most? What pollutants (photochemical oxidant versus particulates, for example) cause the most health damages? (May want to know the latter in order to focus efforts on those pollutants which are most damaging to human health). An issue for consideration - the current monitoring network in Eugene/Springfield may have to be beefed up in order to conduct a health effects study.
- B. Visibility - What impacts do changes in air quality have on visibility, society's valuation of the changes, aesthetic enjoyment, and quality of life? What impacts will changes in kinds and mixes of pollutants produced by alternative policy options have on the foregoing. Potential for quantifying tremendous social benefits of environmental improvement here.

- C. Soiling and material - What changes in household, commercial, and industrial cleaning and maintenance costs can one expect under alternative policy options? What changes may occur in the kinds and mixes (as well as dollar amounts) of material damages under the different options?
- D. Institutional - What impact will various policy choices have not only on air emissions, but also on the Valley's economy as exemplified by various industrial and societal segments.
1. What impacts will policy options have on land use practices? This would include a need to evaluate the potential for increased urban/suburban/rural subdivision which may be precipitated by political decisions impacting the use of field burning as a management tool. Areas of concern would be whether marginal farmland would be subdivided for industrial or residential use, precipitating other pollution problems - such as increases in photochemical oxidant and non-point sources of pollution. What tradeoffs exist between changes in pollution precipitated by changes in land use activities and effects on human health, visibility, etc.? In essence, do we run the risk of creating more pollution problems by controlling one source of pollution without being aware of potential impacts on other sectors?
 2. Tied in with #1 is another issue: of emission offset. What is the implication of controlling or not limiting field burning and industrial expansion in the Valley? This is of particular significance since Federal standards place an upper limit on ambient pollution levels, which in turn has implication for the kinds of economic growth which may be permitted in an impacted area. To the extent control or management of field burning allows certain places in the Valley to fall below certain standards, then the opportunity may exist to attract new industry to the Valley. What are the implications with respect to the air pollution mix, pollution effects, and the economy of the Valley (economic growth, employment, economic diversification, and kind of growth)?
 3. What impacts do various policy options (including smoke management, acreage limitations, taxes and subsidies) have on the comparative positions of the Valley to other producing areas? For example, other producing areas in Eastern Oregon and Washington and Idaho do not at this time face the environmental constraints the Willamette Valley does. If field burning is limited in some way, will production of grass seed in the Valley decline and other areas increase? What implications would such a chain of events have for the Valley's economy, etc? Will transfer of production from the Valley to say Eastern Oregon, where field burning is now allowed, create pollution problems in that part of the state in the future, particularly when it appears that most coal fired power plants will be located there? Could the potential for increasing environmental restraint in the eastern part of the state (assuming grass seed production would relocate there) eventually force grass seed production entirely out of Oregon? If this were to happen, what are the economic and social implications of this long run possibility?

4. A reason for using field burning as a management tool is to control not only for diseases which affect grass seed, but also to eliminate weed and insects. Will control of field burning precipitate increased use of pesticides/herbicides/fungicides to control insects weeds, and diseases in grass seed production? What environmental hazards do these potential switches to alternative management tools and practices have for environmental quality?

IV. Summary

- A. Management of an airshed involves multi-industry and societal tradeoffs. It is, admittedly, a very complex task. Manipulation affects different segments of society within the airshed. There will be gainers and losers. A systems approach to environmental quality management affords an analytical approach to handle and evaluate the tradeoffs.
- B. Any management policy should, theoretically, identify and compare current economic activities with those expected from alternative management policies. The intent is to quantify, to the extent we can, the relative changes expected to occur in both the public and private sectors as a result of different policy options.
- C. The purpose is to identify who gains and who loses, and to assess the net effects of policy choices upon the public and private sectors in Oregon. This is a necessary condition in attempting to assess the impacts on and select the most desirable policy actions.



Environmental Quality Commission

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item K, June 29, 1979, EQC Meeting

Ozone Strategy Development Alternatives

Background

At the June 8, 1979, EQC meeting a state primary ambient air standard for ozone of .08 ppm, one-hour average was adopted. In consideration of this action, the EQC withheld approval of the Ozone State Implementation Plan Revision which was prepared to meet the Federal .12 ppm standard. The EQC then directed the Department to report back to them on the problems and alternatives with respect to meeting the .08 state standard.

Future Ozone Air Quality

One of the major issues discussed when the new ozone standards were being considered was the feasibility of meeting it. The Department has made rough projections through 1987 of ozone air quality in the four areas of the state exceeding the state standard. These are shown in Attachments 1-4. These graphs basically all show continual improvements in ozone quality with a leveling off in the early 1990's. This trend is due primarily to the Federal New Vehicle Emission Control Program. Projections are shown with and without an inspection/maintenance program since this program is potentially the single, most effective, additional ozone control strategy available.

It is apparent from the projections that:

- 1) The Portland area will have difficulty meeting the .12 federal standard by 1987 even with an annual I/M program and will have great difficulty meeting the .08 state standard in the foreseeable future



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unless some drastic measure like reducing motor vehicle travel over 50 percent is implemented.

- 2) The Salem and Medford areas can meet the .12 federal standard by 1982 with present programs but would need an I/M program and some other control measures to meet the .08 state standard within the next ten years.
- 3) The Eugene area meets the .12 federal standard and could meet the .08 state standard by 1987 with present control programs.

From the graphs in Attachments 1-4 it is obvious that the timeframe for meeting the state standard and reducing the number of violation days could be substantially improved by early application of an annual I/M program in all nonattainment areas.

The Metropolitan Service District has made some further specific comments on the feasibility of meeting a .08 standard (Attachment 5). Using only automobile control, they predict a 75 percent reduction in motor vehicle usage in the Portland Area is needed to meet the .08 standard by 1987. They also point out that the likelihood of getting any significant emission reductions from the Washington portion of the AQMA is remote since Washington's only obligation is to plan for meeting the federal .12 standard.

EPA Views on a State Ozone Standard

A meeting was held with the air quality management staff of EPA Region X to discuss EPA requirements with respect to a state air quality standard.

In summary EPA indicated:

- 1) As long as the federal requirements regarding a .12 ozone strategy are met, the state is free to establish its own time schedule for meeting a more stringent state standard.
- 2) Whatever part of the state ozone strategy that is made part of the SIP would be subject to federal enforcement.
- 3) If an ozone SIP revision addressing the .12 federal standard is not submitted by July 1, 1979, the state would be subject to monetary sanctions if EPA rules that a good faith effort has not been made to meet this date.

- 4) EPA funding for development of a plan to meet the state Ozone standard would not be available.
- 5) According to EPA National Guidance, RACT, Lowest Achievable Emission Rate and alternative analyses requirements (all already adopted as SIP revisions) would constitute an approvable SIP for rural nonattainment areas (i.e. Salem and Medford).

With respect to the last item, EPA Region X Management indicated they would still recommend requiring the Medford area to meet similar requirements for urban areas like Portland--that is to require a submittal of a complete attainment strategy or face sanctions.

Lead Agency Views of a State Ozone Standard

A meeting was held with the four lead agencies responsible for the Federal Ozone SIP to discuss the problems and alternatives of meeting the State Ozone Standard.

Lead agencies were unanimous with respect to the following positions.

- 1) They favored immediate submittal of the prepared .12 ozone SIP revisions to avoid federal monetary sanctions.
- 2) If the state ozone standard remains at .08 they favored a strategy development with a reasonable timeframe and dates for plan submittal and standard attainment.
- 3) They are concerned that funding will not be available for such an effort particularly since EPA has indicated that it would not fund efforts to meet state standards.

MSD wrote a letter to the Governor (Attachment 6) specially recommending that a staged state strategy approach consist of development of a .08 control plan after the federal standard is obtained (1987).

In addition funding alternatives discussed for development of a state plan included use of State highway planning money, DEQ money obtained through budgetary or E-Board actions or shifts in local planning priorities. None of these options were considered attractive.

Ozone Control Strategy Development Alternatives

Following are considered the major alternatives available for developing a .08 State Ozone Standard Control Strategy.

- 1) Submit .12 ozone SIP to EPA immediately and develop a .08 strategy by July 1982 with attainment by December 31, 1987.

This alternative has the advantages of avoiding possible monetary sanctions, and being on the EPA's carbon monoxide planning and attainment schedule which might allow some reduced planning cost by combining the two transportation-related planning programs.

The disadvantages include possible changes in control requirements in a short period of time (3 years) for those sources subject to the .12 federal strategy at this time.

- 2) Stage .08 strategy development and actual attainment a set period of time (3-5 years) after the .12 plan schedule.

This alternative has the advantages of allowing time to assess the effectiveness of the .12 strategy and allowing time to develop resources and use improved data bases for the strategy development.

The disadvantages would include possibly requiring sources to apply controls a short period of time after they may have controlled to meet requirements of the .12 federal strategy.

- 3) Submit the .12 SIP to EPA immediately and have the Department report back to the EQC as soon as practicable but not later than 1985 with recommendations for specific time schedules, funding and legislation that may be needed to effectively plan and implement a .08 strategy.

The advantages of this alternative is to allow more time to identify the programs needed to plan a .08 strategy and to allow time to consider better information that could become available on strategy data bases. Sources controlled under the .12 SIP would also have time to amortize new controls required under the .12 strategy before further controls are required.

The disadvantages include a possible long timeframe to even start planning a primary standards attainment strategy (1985), and possibly comparatively little new information becoming available on the time schedule, funding and legislative issue in the future.

- 4) Withhold submittal of the .12 SIP and develop a strategy to meet .08 and .12 as soon as possible but within a timeframe set by the EQC

This alternative has the advantage of developing one complete strategy as soon as possible to meet both state and federal standards. All sources facing control would know their long- and short-term control requirements and only one control planning process would have to be undertaken.

The disadvantages of this alternative includes possible imposition of federal monetary sanctions.

Interim Growth Management Plan

In light of the outlook that development of a strategy and attainment of the .08 standard will take a considerable long time in most areas, it appears that growth and its possible deleterious effects on present violations should be addressed. EPA addressed this situation by requiring an offset program for 100 ton/year VOC sources. An alternative is prohibiting growth on certain-size sources.

Until an acceptable strategy is developed the federal offset program will continue until an acceptable SIP is submitted for .12 or attainment is reached. Unless the federal-type offset program is extended to apply until an adequate plan is adopted to meet the .08 standard, the Department may be faced with having to approve new sources that may irreversibly affect nonattainment of the .08 standard.

Summation

1. The EQC requested the Department to define the problems and alternatives in meeting the new state primary standard of .08 ppm ozone, in light of efforts and requirements to meet the federal standard of .12 ppm.
2. Projected ozone levels indicate that:
 - a) The Portland area will have difficulty meeting the .12 federal standard by 1987 even with an annual I/M program and will have great difficulty meeting the .08 state standard in the foreseeable future unless some drastic measures like reducing motor vehicle travel by over 50 percent are implemented.
 - b) The Salem and Medford areas can meet the .12 federal standard by 1982 with present programs but would need an I/M program and some other control measures to meet the .08 state standard within the next ten years.
 - c) The Eugene area meets the .12 federal standard and could meet the .08 state standard by 1987 with present control programs.
3. An annual I/M program appears to be by far the most effective program for making immediate further progress towards obtaining the .08 state standard in all nonattainment areas.
4. EPA has indicated that as long as the federal requirements regarding a .12 ozone strategy are met, the state is free to establish its own time schedule for meeting a more stringent state standard. If the state .08 standard or any part of the state strategy is made part

of the SIP, however, those included items would be subject to federal enforcement.

5. If an .12 ozone SIP revision is not submitted to EPA by July 1, 1979, the state would be subject to monetary sanctions, if EPA rules that a good faith effort has not been made to meet this date.
6. Local lead agencies for transportation planning unanimously favor immediate submittal of the prepared .12 ozone SIP revisions to avoid possible federal monetary sanctions.
7. If the state ozone standard remains at .08, lead agencies unanimously favor a staged development of a strategy with a reasonable timeframe and later for plan submittal and standards attainment. They are all concerned, though, that funding will not be available for such an effort as EPA has indicated that it would not fund programs to meet state standards.
8. Assuming immediate submittal of the .12 SIP revisions to EPA, the major alternatives for developing a .08 state ozone attainment strategy are:
 - a) Develop a .08 strategy by July 1982 with attainment by December 31, 1987.
 - b) Develop a .08 strategy and attain the .08 standard a set period of time (3-5 years) after the .12 plan schedule.
 - c) Have the Department report back to the EQC as soon as practicable but not later than 1985 with recommendations for specific time schedules, funding and legislation that may be needed to effectively plan and implement the .08 standards in all non-attainment areas of the state.
9. Assuming continued holdup from submitting the .12 ozone SIP revision to EPA, another alternative is to develop one strategy to meet both state and federal standards as soon as possible but within a time-frame specified by the EQC.
10. Growth in the time period prior to developing an acceptable .08 strategy could irreversibly affect a .08 ozone nonattainment condition. Alternatives to addressing this problem include prohibiting growth or extending the EPA-type offset program for 50 tons/year VOC sources until an acceptable plan is developed.

Based on the Summation it is recommended that the Commission:

- 1) Adopt the .12 ozone SIP revision submitted at the June 8, 1979, meeting and direct the Department to immediately forward them to EPA.

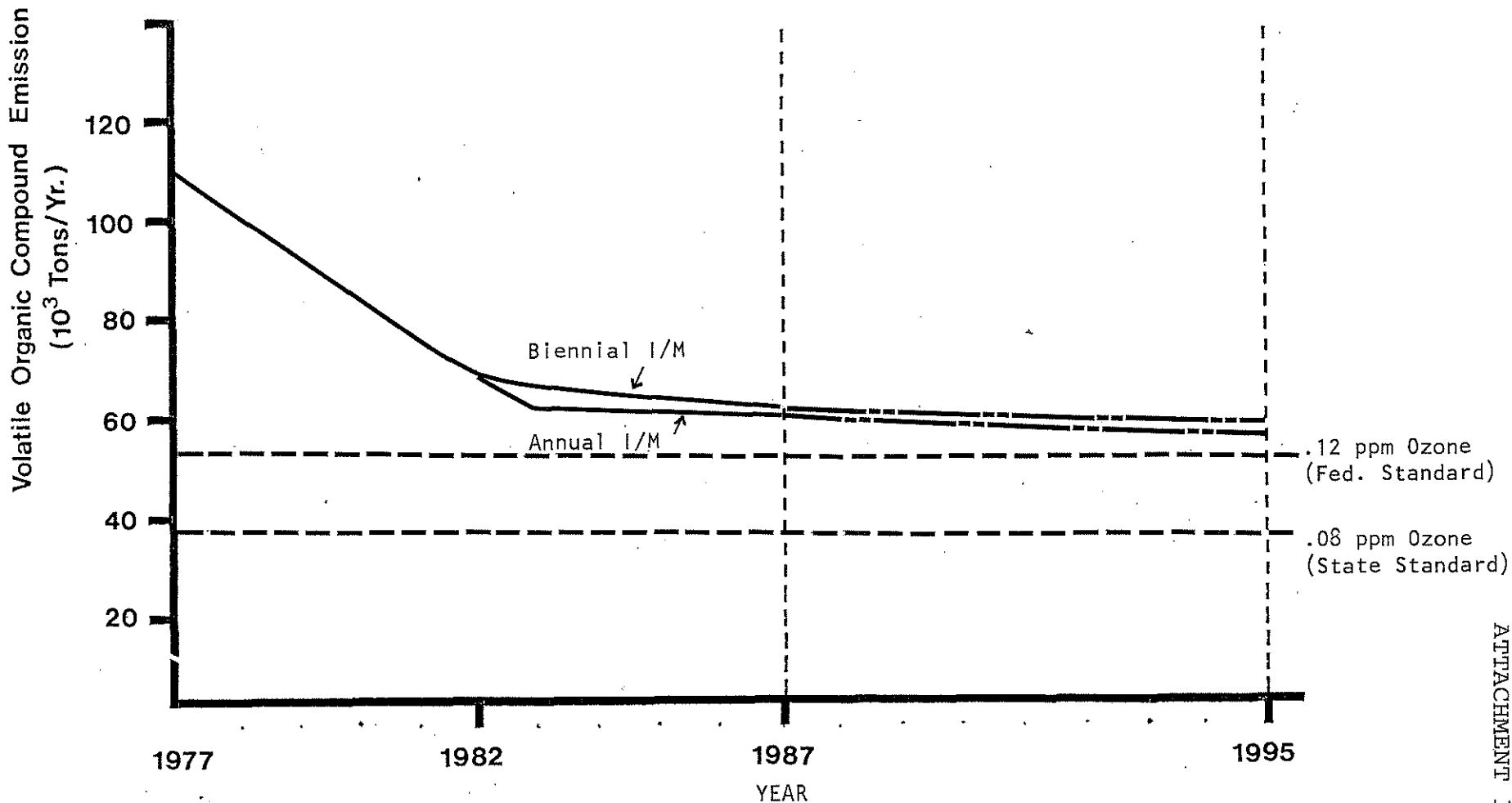
- 2) Select a program to meet the .08 state ozone standard in consideration of the alternatives presented in the summation.
- 3) Advise the Department on whether it should proceed to develop interim growth management strategy with respect to .08 ozone nonattainment areas and whether this should be a prohibition or offset or other type scheme.
- 4) Determine whether immediate additional further progress should be made towards attainment of the state ozone standard by requiring implementation as soon as practical of all reasonable control measures such as RACT for VOC sources in the Eugene area and I/M programs in all areas not attaining the 0.08 state standard.
- 5) Advise the Department as to whether the state ozone standard and control strategy should be a part of the SIP filed with the EPA.
- 6) Advise the Department whether and where the Department or local jurisdiction should seek funding for the strategy planning process.
- 7) Authorize the Department to conduct a public hearing to incorporate planning and attainment dates in the State Ozone Standard Rule if such dates are chosen by the EQC.

William H. Young

JFKowalczyk:bdm
229-6459
June 26, 1979
Attachments: 1-6

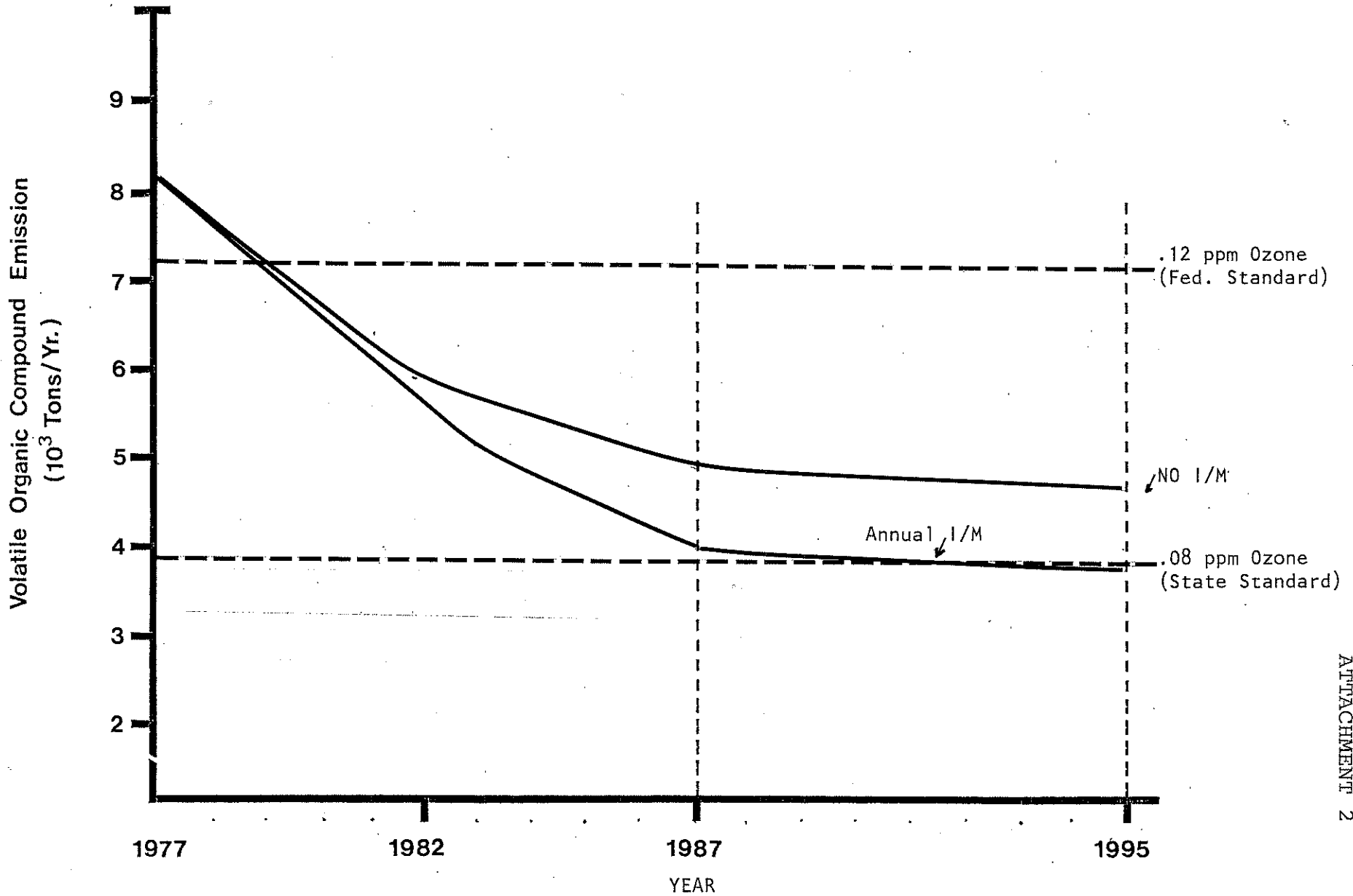
Projected Ozone Air Quality

(PORTLAND-VANCOUVER AQMA)



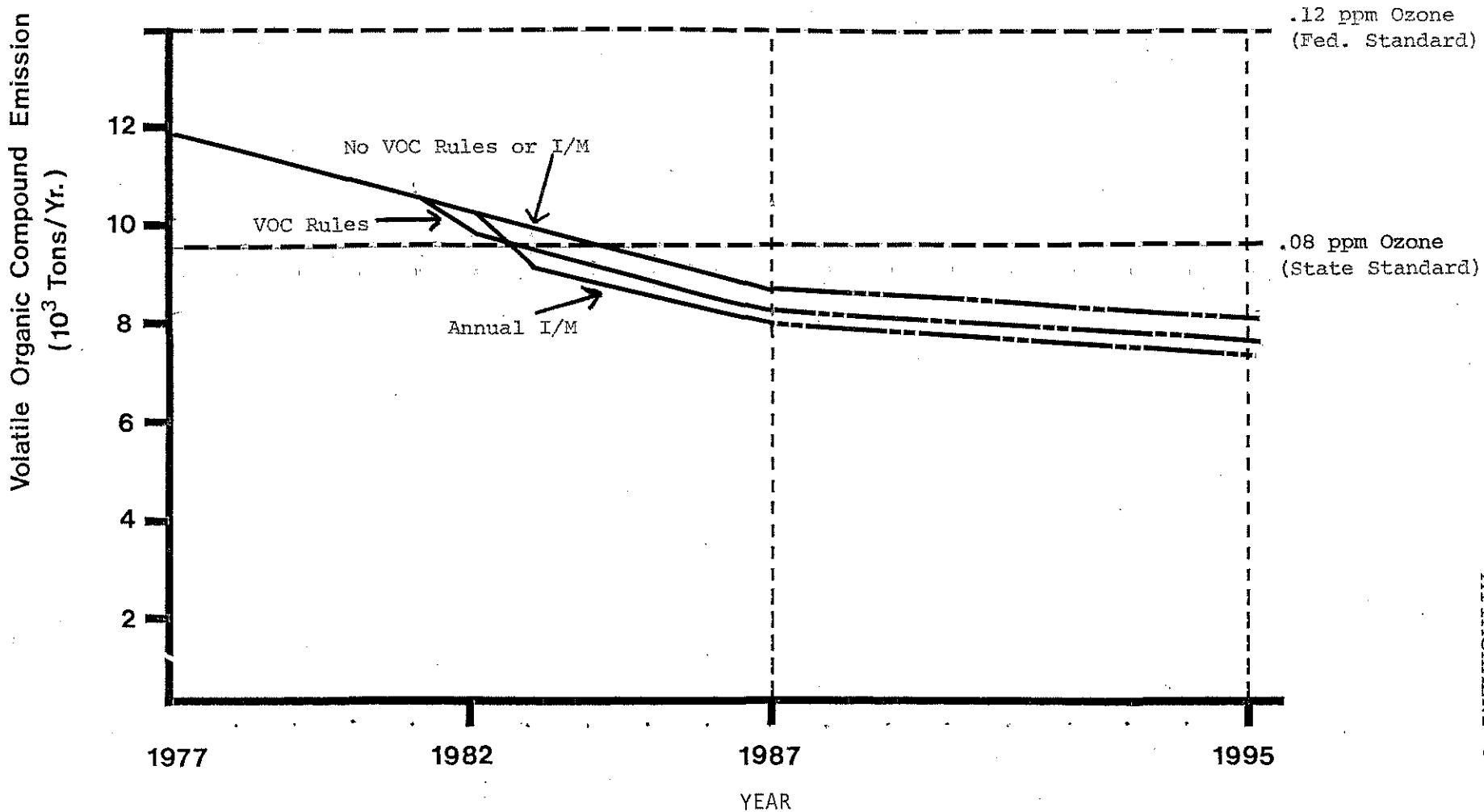
Projected Ozone Air Quality

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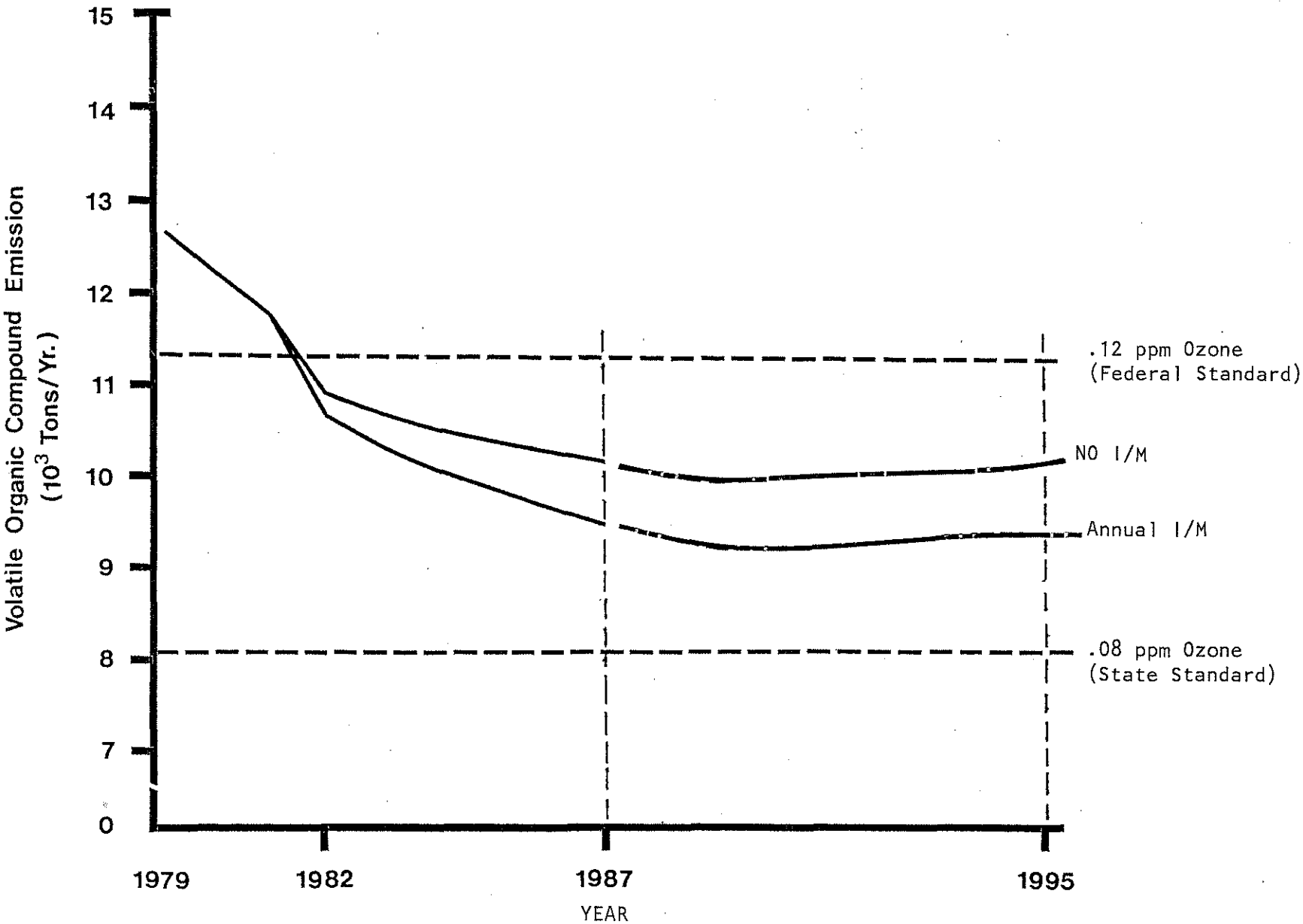
Projected Ozone Air Quality

(EUGENE-SPRINGFIELD AQMA)



Projected Ozone Air Quality

(MEDFORD-ASHLAND AQMA)



MSD METROPOLITAN SERVICE DISTRICT

527 S.W. HALL PORTLAND, OREGON 97201 503/221-1646

Hydrocarbon Emission Reductions from Transportation Related Control Measures June 19, 1979

MSD has estimated that the following reductions of hydrocarbon emissions would be necessary for the AQMA to reach attainment of different ozone standards by 1982 and 1987:

	<u>Standard</u>	<u>1982</u>	<u>1987</u>
Rick Gustafson, Executive Officer	.08	29,553 tons/year	24,152 tons/year
	.10	19,753 tons/year	14,352 tons/year
	.12	13,100 tons/year	7,700 tons/year

MSD Council

Mike Burton,
Presiding Officer
District 12

The following hydrocarbon emissions reduction measures are examples of the magnitude of the problem.

Donna Stuhr,
Deputy Presiding
Officer
District 1

Charles Williamson
District 2

Craig Berkman
District 3

Corky Kirkpatrick
District 4

Jack Deines
District 5

Jane Rhodes
District 6

Betty Schedeen
District 7

Caroline Miller
District 8

Cindy Banzer
District 9

Gene Peterson
District 10

Marge Kafoury
District 11

<u>Measure</u>	<u>Reduction in HC Emissions (Tons/Yr.)</u> ¹
Annual I/M Program in Clark Co.	1,400
No Increase in number of home to work trips from 1977 to 1987 (Equivalently, 24% reduction in home to work trips as projected for 1987)	3,200
25% reduction in home to work trips from 1977 to 1987 (Equivalently, 43% reduction in home to work trips as projected for 1987)	5,200
Reduction by 50% in use of motor vehicles on all freeways, highways and streets within AQMA as projected in 1987	16,000
Phase out of all freeways, highways and streets for use by motor vehicles	31,950

Impact of Washington State Retaining .12 ppm Ozone Standard

The only definitive statement that can be made at this time concerning what the impact to the Oregon portion of the AQMA would be if Washington State retains a .12 ppm ozone standard is that Washington would not be legally required and would almost certainly not voluntarily offer

¹Note: Figures in this column cannot be added to determine cumulative reductions.

to participate in a planning effort resulting in a hydrocarbon emissions control strategy designed to meet a .08 ppm ozone standard in the AQMA. Washington's only obligation would be to plan for the .12 ppm federal ozone standard.

As an example of what this means in terms of control strategies, if one were to operate under the premise that Oregon and Washington should plan for hydrocarbon emission reductions somewhere in the vicinity of each state's percentage of either current total emissions or population in the AQMA, then emission reductions in Washington should account for approximately 15 percent of the total needed to meet a given standard. An annual inspection/maintenance program in Clark County, Washington is projected to result in a 1,400 ton reduction in hydrocarbons by 1987, or 18 percent of the total reduction required for the AQMA if .12 ppm is the standard. This reduction would represent ten percent of the required reduction if the ozone standard is .10 and only six percent of the reduction required if a .08 ppm standard is the target.

In conclusion, it is unlikely that other significant reductions in hydrocarbon emissions to meet a .08 ppm ozone standard would come from the Washington portion of the AQMA because: 1) it has already been demonstrated in several major urban areas that inspection/maintenance is by far the single most effective mobile source control measure available for reducing hydrocarbon emissions (even compared against groups of other measures such as improved transit and carpooling); 2) the hydrocarbon reductions from Clark County due to inspection/maintenance, improved bus service, and new VOC regulations would total over 20 percent of the reduction necessary to meet the .12 ppm ozone standard in 1987; and 3) Vancouver is much smaller in size and scope than Portland which makes many of the reasonably available transportation control measures inapplicable. This means, then, that a disproportionate share of the additional 16,450 ton hydrocarbon reduction required to meet the .08 ppm standard in the AQMA would have to come from new controls on Oregon's transportation and commercial/industrial development.

RB:gh
4057A
0032A

VICTOR ATIYEH
GOVERNOR



OFFICE OF THE GOVERNOR
STATE CAPITOL
SALEM, OREGON 97310

Rick Gustafson
Executive Officer
Metropolitan Service District
527 Southwest Hall
Portland, OR 97201

Dear Mr. Gustafson:

Thank you for your June 15, 1979, letter which presents your views on problems that would be created by immediate implementation of a State of Oregon 0.08 ppm Ozone Standard as compared to the Federal Ozone Standard of 0.12 ppm.

Bill Young has informed me that the EQC asked the DEQ staff to report back to them at their June 29 meeting on potential problems, and alternative solutions.

I am sure the Commission will be extremely interested in learning how MSD could be affected by the potentially available implementation schedules and will carefully consider your proposed solution.

Sincerely,

Victor Atiyeh
Governor

VA:jl

cc: Bill Young

MSD METROPOLITAN SERVICE DISTRICT

527 S.W. HALL PORTLAND, OREGON 97201 503/221-1646

June 15, 1979

Placed
for Governor
by Frank Y.C.J.
6-27 3253

DEG

The Honorable Vic Atiyeh
Governor of the State of Oregon
Oregon State Capitol
Salem, OR 97310

PLEASE RETURN
ORIGINAL LETTER

RECEIVED

JUN 19 1979

Dear Governor Atiyeh: *Vic*

I would like to present the Metropolitan Service District views on the recent confusion over the ozone standards to be included in the State Implementation Plan for Air Quality.

Rick Gustafson,
Executive Officer

It is my feeling that the confusion has come about through an attempt to apply a state goal that had previously been established without a specific attainment timeline to a federal recommended timeline to attain a less stringent standard. Our position is that we should not try to synchronize these time frames on an incremental basis. I would suggest that we proceed with the preparation of the State Implementation Plan reflecting the current federal standard of .12 parts per million (ppm) ozone, and do everything necessary to reach attainment of that standard by 1987. It would then be reasonable to assess the possibility of attaining, after 1987 and prior to some established State deadline (be it 1990 or later,) a program to attain the more stringent State standard. My understanding is that the State can retain the .08 as a secondary standard to be applied in this manner without continuing the current conflict and confusion between the two standards.

MSD Council

Mike Burton,
Presiding Officer
District 12

Donna Stuhr,
Deputy Presiding
Officer
District 1

Charles Williamson
District 2

Craig Berkman
District 3

Corky Kirkpatrick
District 4

Jack Deines
District 5

Jane Rhodes
District 6

Betty Schedeem
District 7

Caroline Miller
District 8

Cindy Banzer
District 9

Gene Peterson
District 10

Marge Kafoury
District 11

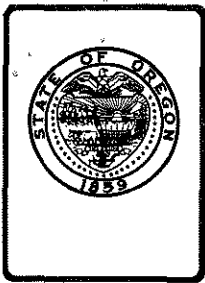
The immediate application of the .08 standard to the State Implementation Plan will cause severe problems on process, funding and, considering the bi-state nature of our metropolitan area, we would be affected by the existence of a more stringent standard for Oregon than would apply to the Clark County-Vancouver, Washington area.

I plan to be in attendance at the next Environmental Quality Commission meeting to propose this solution and would hope that we could work jointly toward a rapid resolution of the current confusion on the Air Quality Standard.

Sincerely,

Rick Gustafson
Rick Gustafson
Executive Officer

RG:DUK:mec



Environmental Quality Commission

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696

MEMORANDUM

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item L, June 29, 1979, EQC Meeting

Proposed Adoption of Temporary Rules Regulating Open Field Burning OAR Chapter 340, Section 26-005 and Section 26-015

In May, 1979, the staff submitted a proposed State Implementation Plan (SIP) revision to the Environmental Protection Agency (EPA). That agency has subsequently reviewed the proposed change and has asked the department to: (1) Clarify certain parts of the submittal and their understanding of our operational field burning program; (2) Provide further technical support for previous field burning rule changes; and (3) Respond to certain procedural issues affecting the Eugene-Springfield Air Quality Maintenance Area. The Department staff can respond to most of EPA's concerns directly. However, certain of EPA's questions address possible revisions to the regulations controlling field burning. In this regard EPA is specifically seeking:

1. A justification for the change in relative humidity restrictions on field burning from 50 percent to 65 percent.

The EPA believes that the rules adopted in December, 1978, providing for an upward change in the relative humidity (RH) level above which field burning is prohibited will result in an increase in emissions. The staff justified adoption of the 65 percent level based upon: (1) Field work conducted during the 1978 burning season which indicated the 65 percent RH value corresponded with about 12 percent straw moisture content (the upper straw moisture limit allowed under regulations in 1978); and (2) A Department analysis indicating retention of the 50 percent level would significantly reduce overall burning opportunity.

2. Identification of the regulatory authority to burn more than one quota per day in a fire district.

Current smoke management operational procedures allow increases in the amount of acreage to be burned to match improving atmospheric ventilation and wind direction conditions. This practice often results in more than one quota (a pre-set fire district acreage allocation) being issued on a given day. However, one EPA interpretation of the current rule language would not allow more than one such quota to be issued each day.



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3. Identification and use of continuous emission control techniques.

The Federal Clean Air Act requires sources to maintain "continuous emission controls." Current rules requiring the use of strip-lighting techniques (considered an emission control technique by EPA) with a subsequent waiver of the requirement under periods of excellent ventilation are not considered to meet the continuous emission controls provisions of the Federal law.

Since the December, 1978, rule adoption, the results of the first year of field burning ignition technique/plume analysis studies have been completed. This preliminary work indicates a specialized form of perimeter lighting to produce the least amount of ground level smoke when compared to other techniques. The EPA has indicated this technique to be the only other acceptable alternative to into-the-wind strip-lighting.

4. A clear identification of prohibition condition criteria.

Prohibition conditions, prior to 1978, existed whenever northerly winds existed and the mixed depth of the atmosphere was less than 3500 feet. Rule changes of 1978 were proposed to add an additional stipulation, specifically, relative humidity must be less than 50 percent (later 65 percent). The EPA interprets the language of the 1978 changes such that prohibition conditions are not necessarily in effect when northerly winds, a mixing depth of less than 3500 feet, and low humidity exist simultaneously.

The EPA has indicated that a rapid response is necessary to these items so that SIP revision processing may move ahead and be completed prior to the burning of 50,000 acres allowed by the current SIP.

Rulemaking Authority

Oregon Revised Statutes (ORS) 468.450 establishes the Commission's authority to regulate field burning through identification of "marginal days" and development of a schedule identifying the extent and types of burning to be allowed on such days. ORS 468.460 specifically authorizes the Commission to promulgate rules for the control of field burning in the Willamette Valley. ORS 468.460(3) requires the Commission to consult with Oregon State University prior to such promulgation.

In order to comply with State statutes, a "Statement of Need for Rulemaking" is attached. (Attachment 1)

Alternatives and Evaluation

The EPA, in discussing the proposed SIP revision, offered two alternative methods for addressing the perceived inadequacies. The first alternative is the adoption of rule changes, where necessary, adequate to satisfy the EPA's concerns. The second alternative is to provide the EPA with sufficient further understanding of the submitted technical data, the current rules, and current smoke management practices so that our SIP revision may be conditionally approved, though parts of the submitted regulations may not be deemed adequate. Such a conditional approval

would rely heavily upon the EPA's interpretation and understanding of smoke management program operations.

In addressing the EPA's four areas of concern, the Department would propose to submit additional technical documentation with regard to the change in relative humidity restrictions and seek rule revisions regarding the three remaining areas. The Department believes the proposed rule changes (Attachment II) address legitimate needs to improve rule clarity and thereby minimize perceived discrepancies between rule language and actual operating procedures. In addition, the Department believes adoption of rules helps ensure maximum state control of field burning regulation and minimize reliance upon the EPA interpretations of our operational goals and procedures.

In developing responses to the EPA's concerns, the Department has communicated primarily with the EPA staff. Due to the short time frame, communications with other interested parties during the development process has been limited. However, copies of the proposed rules have been sent to Oregon State University (with a specific request for comment) and other interested parties so that, if acceptable to the Commission, comment could be received at the June 29, 1979, EQC meeting.

Specifically, the Department proposes to address the EPA's concerns regarding the current field burning rules as follows:

Relative Humidity Restrictions

The change in relative humidity levels restricting field burning is supported as previously described by a summer season field study conducted by Department staff during 1978. The study was conducted to identify either field techniques or predictive methods whereby a straw moisture content (MC) of 12 percent, wet weight basis, could be easily determined. As a result, considerable data was collected on equilibrium straw moisture content. It was found that straw MC was well correlated with relative humidity, particularly early in the season, and that 65 percent RH, rather than the previous 50% value, correlated with a 12 percent straw MC. The correlation between RH and MC degrade after rain and rules prohibiting burning immediately after rainfall were adopted in December.

The staff proposes to send the EPA the completed report of the 1978 study as further technical support for the rule change.

Multiple Quota Issuance

A review of the rules describing and limiting burn authorization procedures, OAR 340-26-015, indicates that:

1. The language of subsection (2)(a) may be interpreted to restrict the amount of burning the Department can authorize to one quota per day in each fire district; and
2. The language of the section no longer reflects the present meaning and use of acreage quotas.

To address the issuance of more than one quota, specific language would be incorporated through the proposed rule revision to allow issuance of burn authorizations in terms of single, multiple, or fractional quotas. Such authorization procedure has been the common practice. A redefinition of the term "quota" and other necessary rule changes consequent to the new definition are proposed to address (2) above. While the fire district acreage quota remains a tool to effect an equitable distribution of burning, its previous direct relationship to total fire district acreage no longer exists. As regionally-based restrictions to burning have been applied through rule revision, changes to quota sizes have sometimes been used to maintain parity in burning opportunity. Such an example is the increase in quota size afforded to several Silverton Hills fire districts to offset new restrictions on burning upwind of the Eugene-Springfield area. The new definition of fire district quotas removes language construed to limit burning authorization to one quota "on a marginal day."

Continuous Emission Control Techniques

The Clean Air Act requires the utilization of continuous emission controls. The EPA, Region X, has, to date, considered into-the-wind strip-lighting a reasonably available emission control. However, its use under current DEQ rules is required only on annual grasses and cereal grains and is not required when "unlimited ventilation" conditions exist. Thus, the EPA does not consider the technique, as applied by the Department, a continuous emission control. However, because the previously mentioned "perimeter" lighting technique, as demonstrated by OSU researchers, has shown reduced ground level impacts, the EPA supports its use. The use of either perimeter lighting or into-the-wind strip-lighting may receive EPA approval as a continuous emission control technique provided the techniques are used under all conditions.

A form of perimeter lighting, incorporating the use of backfires to reduce the danger of fire spread, is the preferred technique of Willamette Valley seed growers. It has come into popular use chiefly due to its inherent safety (ever-enlarging fire breaks) and speed. Because much of the average burn using this technique is accomplished under a headfire, emissions are high. Plume rise is as good or better than other ignition techniques except certain rapid ignition methods.

Because the perimeter lighting techniques, as executed by OSU researchers, incorporated at least four lighting vehicles, whereas seed growers might average two, it may not yet be a reasonably applicable technology for the average seed grower. In addition, questions about fire safety still remain regarding the OSU method. However, application of rapid lighting techniques and minimization of backfiring can be combined with perimeter lighting methods to reduce ground level smoke concentrations and maximize plume loft. The proposed definition of perimeter burning would incorporate these requirements. A further change to OAR 340-26-015 (4)(e)(A) to require, under all conditions, the use of into-the-wind strip-lighting or perimeter lighting, as defined, would be submitted to EPA as meeting the requirement for continuous emission control.

Definition of Prohibition Conditions

At no time has staff proposed to do general burning under poor ventilation conditions. To reinforce this intent a rule change is proposed which would clarify the language regarding prohibition condition criteria and thereby better reflect actual operational application.

Timing of Response

The EPA staff have indicated that any approval of Oregon's SIP revision for this field burning season may likely be conditional due to:

1. Procedural requirements preventing final SIP approval until published in the Federal Register, (not expected until late August or September) at which time 50,000 acres will likely have been burned; and
2. The attachment of conditioning interpretations or incorporation of temporary rules, such as proposed in this staff report, addressing the more substantive concerns of EPA.

The EPA has further indicated that after submittal of additional interpretive or supporting information or additional rule changes, some further review will be required prior to issuance of a conditional approval.

As a further complication, the grass seed harvest is about one to two weeks ahead of its normal schedule due to the dry spring. The burning of 50,000 acres, allowed by the current SIP, could realistically be accomplished during July at which time burning would cease. In order to avoid such a curtailment of burning and carry out the intent of the rules previously adopted by the Commission, the Department proposes that the EQC adopt the proposed temporary rules, under emergency conditions, for immediate submittal to the EPA. Such a submittal should provide adequate time for EPA processing and should minimize delays in burning activities due to a conflict with the current SIP acreage limitation.

Summation

The Environmental Protection Agency (EPA), Region X, has reviewed the Department's proposed revision to Oregon's Clean Air Act State Implementation Plan (SIP) and has requested additional clarification and changes affecting field burning regulations and procedures. The EPA requests and proposed Department responses are summarized as follows:

1. Provide justification for the change in relative humidity restrictions on field burning from 50 percent to 65 percent as adopted by the EQC in December, 1978.

The Department would propose to submit further technical justification based upon and including the straw moisture content study conducted by the Department during the 1978 summer burning season.

2. Identify the Department's regulatory authority to burn more than one quota of acreage per day in a fire district.

The Department proposes, for EQC adoption, a revision to OAR 340-26-015(2), as shown in Attachment II, to redefine the term quota and specifically provide authority for issuance of single, multiple, or fractional quotas. The language of the proposed revisions would better reflect actual operating procedures.

3. Identify and incorporate the use of constant emission control techniques for field burning.

The Department proposes for EQC adoption a revision to OAR 340-26-005 and 26-015(4)(e)(A), as shown in Attachment II, to define a perimeter lighting technique and to require the use of either perimeter lighting or into-the-wind strip-lighting on all fields under all conditions. Due to the relatively low ground level smoke impact of perimeter lighting, as demonstrated by recent research, and the relatively lower emission of into-the-wind strip-lighting the use of either technique is proposed as continuous emission control.

4. Clarify the definition of "Prohibition Conditions."

The Department proposes for EQC adoption, a revision to OAR 340-26-015 (1)(c), as shown in Attachment II, to clarify the current wording such that prohibition conditions are in effect whenever: (1) Northerly winds exist and vertical mixing is less than or equal to 3500 feet; or (2) Relative Humidity exceed 65 percent. The proposed rule reflects actual operating procedures.

The Department proposes rule changes for (2), (3), and (4) above in order to ensure maximum state control of field burning, to make the rules more compatible with actual operating procedures, and to clarify the rule language and meaning.

Staff believes the Commission should find that failure to act promptly would result in serious prejudice to the public interest and to the interest of the parties involved for the specific reason that the 1979 field burning season is imminent and the burning of 50,000 acres during the first 30 days of the season is feasible. Thus, normal notice procedures for adoption of permanent rules would not allow, in a timely manner, resolution of EPA's concerns nor approval of the proposed SIP revision.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission take the following action:

1. Acknowledge as of record the consultation with and recommendations of Oregon State University and the Department and any other parties consulted pursuant to ORS 468.460(3).

2. Enter a finding that failure to act promptly will result in serious prejudice to the parties involved and to the public interest for the specific reasons cited above.
3. Subject to any changes found appropriate as a result of recommendations made to the Commission or findings reached at this June 29, 1979, meeting, adopt the proposed amendments to OAR Chapter 340, Sections 26-005 and 26-015 as temporary rules to become effective immediately upon filing with the Secretary of State.
4. Instruct the Department to file promptly the adopted rules and findings with the Secretary of State as temporary rules to become effective immediately upon such filing and to remain effective for 120 days thereafter and to forward the rules and other pertinent information to the EPA as a supplement to the previously submitted revision to Oregon's Clean Air Act State Implementation Plan.

WILLIAM H. YOUNG

Attachments: I Statement of Need for Rulemaking
II Proposed Revisions to OAR Chapter 340, Sections 26-005 and 26-015

SAF:pas
686-7837
6/25/79

ATTACHMENT I

Agenda Item L, June 29, 1979, EQC Meeting

Proposed Adoption of Rules Regulating Open Field Burning,
OAR Chapter 340, Section 26-005 and 26-015

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(7), this statement provides information on the Environmental Quality Commission's intended action to adopt a rule.

(1) Legal Authority.

Oregon Revised Statutes 468.020, 468.450, and 468.460.

(2) Need for the Rule.

Proposed amendment of open field burning regulations, OAR 340, 26-005 and 26-015, is needed to:

1. Clarify the definition of prohibition conditions;
2. Specifically authorize the Department of Environmental Quality to issue more than one quota of acreage per fire district per day, and thus bring rule and actual operation into compatibility; and
3. Define and require the use of perimeter ignition techniques as an alternative to into-the-wind strip-lighting.

All such changes are required to achieve Environmental Protection Agency acceptance of a field burning State Implementation Plan revision.

(3) Principle Documents Relied Upon in this Rulemaking.

1. Staff reports William H. Young, Director, Department of Environmental Quality, presented at the December 15, 1979, and April 27, 1979, EQC meetings.
2. Personal communication with Clark Gaulding, Air Programs Branch Administrator, U. S. Environmental Protection Agency, June 15, 1979.
3. Record of the Environmental Quality Commission meeting, June 29, 1979.

SAF:pas
686-7837
June 25, 1979

Attachment II

DEPARTMENT OF ENVIRONMENTAL QUALITY
Chapter 340

Agricultural Operations
AGRICULTURAL BURNING

26-005 DEFINITIONS. As used in this general order, regulation and schedule, unless otherwise required by context:

- (1) Burning seasons:
 - (a) "Summer Burning Season" means the four month period from July 1 through October 31.
 - (b) "Winter Burning Season" means the eight month period from November 1 through June 30.
- (2) "Department" means the Department of Environmental Quality.
- (3) "Marginal Conditions" means conditions defined in ORS 468.450(1) under which permits for agricultural open burning may be issued in accordance with this regulation and schedule.
- (4) "Northerly Winds" means winds coming from directions in the north half of the compass, at the surface and aloft.
- (5) "Priority Areas" means the following areas of the Willamette Valley:
 - (a) Areas in or within 3 miles of the city limits of incorporated cities having populations of 10,000 or greater.
 - (b) Areas within 1 mile of airports servicing regularly scheduled airline flights.
 - (c) Areas in Lane County south of the line formed by U. S. Highway 126 and Oregon Highway 126.
 - (d) Areas in or within 3 miles of the city limits of the City of Lebanon.
 - (e) Areas on the west side of and within 1/4 mile of these highways; U. S. Interstate 5, 99, 99E, and 99W. Areas on the south side of and within 1/4 mile of U. S. Highway 20 between Albany and Lebanon, Oregon Highway 34 between Lebanon and Corvallis, Oregon Highway 228 from its junction south of Brownsville to its rail crossing at the community of Tulsa.
- (6) "Prohibition Conditions" means atmospheric conditions under which all agricultural open burning is prohibited (except where an auxiliary fuel is used such that combustion is nearly complete, or an approved sanitizer is used).

"[----]" represents material deleted

Underlined material represents proposed additions

(7) "Southerly Winds" means winds coming from directions in the south half of the compass, at the surface and aloft.

(8) "Ventilation Index (VI)" means a calculated value used as a criterion of atmospheric ventilation capabilities. The Ventilation Index as used in these rules is defined by the following identity:

$$VI = \frac{\text{Mixed depth (feet)} \times \text{Average wind speed through the mixed depth (knots)}}{1000}$$

(9) "Willamette Valley" means the areas of Benton, Clackamas, Lane, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties lying between the crest of the Coast Range and the crest of the Cascade Mountains, and includes the following:

(a) "South Valley," the areas of jurisdiction of all fire permit issuing agents or agencies in the Willamette Valley portion of the Counties of Benton, Lane or Linn.

(b) "North Valley," the areas of jurisdiction of all other fire permit issuing agents or agencies in the Willamette Valley.

(10) "Commission" means the Environmental Quality Commission.

(11) "Local Fire Permit Issuing Agency" means the County Court or Board of County Commissioners or Fire Chief of a Rural Fire Protection District or other person authorized to issue fire permits pursuant to ORS 477.515, 477.530, 476.380 or 478.960.

(12) "Open Field Burning Permit" means a permit issued by the Department pursuant to ORS 468.458.

(13) "Fire Permit" means a permit issued by a local fire permit issuing agency pursuant to ORS 477.515, 477.530, 476.380 or 478.960.

(14) "Validation Number" means a unique three-part number issued by a local fire permit issuing agency which validates a specific open field burning permit for a specific acreage on a specific day. The first part of the validation number shall indicate the number of the month and the day of issuance, the second part the hour of authorized burning based on a 24 hour clock and the third part shall indicate the size of acreage to be burned (e.g., a validation number issued August 26 at 2:30 p.m. for a 70 acre burn would be 0826-1430-070).

(15) "Open Field Burning" means burning of any perennial grass seed field, annual grass seed field or cereal grain field in such manner that combustion air and combustion products are not effectively controlled.

(16) "Backfire Burning" means a method of burning fields in which the flame front does not advance with the existing surface winds. The method requires ignition of the field only on the downwind side.

(17) "Into-the-Wind Strip Burning" means a modification of backfire burning in which additional lines of fire are ignited by advancing directly into the existing surface wind after completing the initial backfires. The technique increases the length of the flame front and therefore reduces the time required to burn a field. As the initial burn nears approximately 85% completion, the remaining acreage may be burned using headfiring techniques in order to maximize plume rise.

(18) "Perimeter Burning" means a method of burning fields in which all sides of the field are ignited as rapidly as practicable in order to maximize plume rise. A minimum of preparatory backfire burning may be completed in order to reduce fire danger.

(19) [~~(18)~~] "Approved Field Sanitizer" means any field burning device that has been approved by the Department as an alternative to open field burning.

(20) [~~(19)~~] "Approved Experimental Field Sanitizer" means any field burning device that has been approved by the Department for trial as a potential alternative to open burning or as a source of information useful to further development of field sanitizers.

(21) [~~(20)~~] "After-Smoke" means persistent smoke resulting from the burning of a grass seed or cereal grain field with a field sanitizer, and emanating from the grass seed or cereal grain stubble or accumulated straw residue at a point 10 feet or more behind a field sanitizer.

(22) [~~(21)~~] "Leakage" means any smoke resulting from the use of a field sanitizer which is not vented through a stack and is not classified as after-smoke.

(23) [~~(22)~~] "Approved Pilot Field Sanitizer" means any field burning device that has been observed and endorsed by the Department as an acceptable but improvable alternative to open field burning, the operation of which is expected to contribute information useful to further development and improved performance of field sanitizers.

(24) [~~(23)~~] "Approved Alternative Method(s)" means any method approved by the Department to be a satisfactory alternative method to open field burning.

(25) [~~(24)~~] "Approved Interim Alternative Method" means any interim method approved by the Department as an effective method to reduce or otherwise minimize the impact of smoke from open field burning.

(26) [~~(25)~~] "Approved Alternative Facilities" means any land, structure, building, installation, excavation, machinery, equipment or device approved by the Department for use in conjunction with an Approved Alternative Method or an Approved Interim Alternative Method for field sanitation.

(27) [~~(26)~~] "Drying Day" means a 24-hour period during which the relative humidity reached a minimum less than 50% and no rainfall occurred.

26-015 WILLAMETTE VALLEY SUMMER BURNING SEASON REGULATIONS

As provided for in Section 6 of Oregon Law 1977, Chapter 650, the Department shall conduct a smoke management program which shall include in addition to other provisions covered in these rules the following provisions:

(1) Classification of Atmospheric Conditions. All days will be classified as marginal or prohibition days under the following criteria:

(a) Marginal Class N conditions: Forecast northerly winds [~~7~~] and a mixing depth greater than 3500 feet.

(b) Marginal Class S conditions: Forecast southerly winds.

(c) Prohibition conditions: Either (A) forecast northerly winds [~~7~~] and a mixing depth of 3500 feet or less [~~7~~ and ~~7~~] or; (B) relative humidity greater than 65 percent.

(d) Unlimited Ventilation conditions: A mixing depth of 5000 feet or greater and a ventilation index of 32.5 or greater.

(2) Quotas.

(a) Except as provided in this subsection, the total acreage of permits for open field burning shall not exceed the amount authorized by the Department for each marginal day. [~~Daily~~] Authorizations of acreages shall be issued in terms of single, multiple, or fractional basic quotas or [~~7~~] priority area quotas as listed in Table 1, attached as Exhibit A and incorporated by reference into this regulation and schedule, and defined as follows:

(A) The basic quota of acreage shall be established for each [represents-the number-of-acres-to-be-allowed-throughout-a] permit jurisdiction, including fields located in priority areas, [on-a-marginal-day-on-which-general-burning-is-allowed in-that-jurisdiction:] in a manner to provide, as reasonably as practicable, an equitable opportunity to burn.

(B) The priority area quota of acreage shall be established for each permit jurisdiction, for fields in priority areas, [represents-the-number-of-acres-allowed within-the-priority-areas-of-a-permit-jurisdiction-on-a-marginal-day-when-only priority-area-burning-is-allowed-in-that-jurisdiction:] in a manner to provide, as reasonably as practicable, an equitable opportunity to burn.

(b) Willamette Valley permit agencies or agents not specifically named in Table 1 shall have a basic quota and priority area quota of 50 acres only if they have registered acreage to be burned within their jurisdiction.

(c) In no instance shall the total acreage of permits issued by any permit issuing agency or agent exceed that allowed by the Department for the marginal day, except as provided for jurisdictions with 50 acres quotas or less as follows: When the [~~established-daily-acreage~~] Department has authorized one quota [is-50 acres] or less, a permit may be issued to include all the acreage in one field providing that field does not exceed 100 acres and provided further that no other permit is issued for that day. [~~For-those-districts-with-a-50-acre-quota-~~] Permits [~~for-more-than-50-acres~~] shall not be so issued on two consecutive days.

(d) The Department may designate additional areas as Priority Areas, and may adjust the basic acreage quotas or priority area quotas of any permit jurisdiction, where conditions in [~~their~~] its judgment warrant such action.

(3) Burning Hours.

(a) Burning hours may begin at 9:30 a.m. PDT, under marginal conditions but no open field burning may be started later than one-half hour before sunset or be allowed to continue burning later than one-half hour after sunset.

(b) The Department may alter burning hours according to atmospheric ventilation conditions when necessary to attain and maintain air quality.

(c) Burning hours may be reduced by the fire chief or his deputy when necessary to protect from danger by fire.

(4) Extent and Type of Burning.

(a) Prohibition. Under prohibition conditions, no fire permits or validation numbers for agricultural open burning shall be issued and no burning shall be conducted, except where an auxiliary liquid or gaseous fuel is used such that combustion is essentially complete, or an approved field sanitizer is used.

(b) Marginal Class N Conditions. Unless specifically authorized by the Department, on days classified as Marginal Class N burning may be limited to the following:

(A) North Valley: one basic quota may be issued in accordance with Table 1 except that no acreage located within the permit jurisdictions of Aumsville, Drakes Crossing, Marion County District 1, Silverton, Stayton, Sublimity, and the Marion County portions of the Clackamas-Marion Forest Protection District shall be burned upwind of the Eugene-Springfield non-attainment area.

(B) South Valley: one priority area quota for priority area burning may be issued in accordance with Table 1.

(c) Marginal Class S Conditions. Unless specifically authorized by the Department on days classified as Marginal Class S conditions, burning shall be limited to the following:

(A) North Valley: One basic quota may be issued in accordance with Table 1 in the following permit jurisdictions: Aumsville, Drakes Crossing, Marion County District 1, Silverton, Stayton, Sublimity, and the Marion County portion of the Clackamas-Marion Forest Protection District. One priority area quota may be issued in accordance with Table 1 for priority area burning in all other North Valley jurisdictions.

(B) South Valley: One basic quota may be issued in accordance with Table 1.

(d) Special Restrictions on Priority Area Burning.

(A) No priority acreage may be burned on the upwind side of any city, airport, or highway within the same priority areas.

(B) No south priority acreage shall be burned upwind of the Eugene-Springfield non-attainment area unless when burned the resultant smoke is effectively passed over the city at no less than 3000 feet above mean sea level.

(e) Restrictions on burning techniques.

(A) All [~~annual~~] grass seed crops[;] and cereal [~~crops;--and-if-so-directed by-the-Department;--bentgrass~~] crops shall be burned using into-the-wind strip burning or perimeter burning methods [~~except-when-unlimited-ventilation-conditions exist~~].

(B) The Department shall require acreages to be burned using into-the-wind strip burning techniques when, in the Department's judgment, use of such techniques will reduce adverse effects on air quality.

(f) Restrictions on burning due to rainfall.

(A) Burning shall not be permitted in an area for one drying day for each 0.10 inch of rainfall received at the nearest measuring station up to a maximum of four drying days.

(B) The Department may on a field-by-field or area-by-area basis waive the restrictions of (A) above when dry fields are available through special preparation or unusual rainfall patterns and wind direction and dispersion conditions are appropriate for burning with minimum smoke impact.

ENVIRONMENTAL QUALITY COMMISSION

BREAKFAST MEETING AGENDA

7:30 AM, JUNE 29, 1979

CONFERENCE ROOM A, STANDARD PLAZA BUILDING CAFETERIA
1100 S. W. SIXTH AVENUE
PORTLAND, OREGON

1. UPDATE ON WATER QUALITY CONSTRUCTION GRANTS PRIORITY LIST PROCESS - SAWYER
2. STATUS OF EVANS PRODUCTS CO. PERMIT, CORVALLIS - BORDEN
3. AIRPORT NOISE RULEMAKING PROCESS - HECTOR
4. STATUS OF 1979-81 BUDGET REQUEST



State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

June 29 79

INTEROFFICE MEMO

To: Young, Weathersbee, Kowalczyk
cc: Downs, Gemma

Date: 7/5/79

From: Carol Splettstaszer

Subject: 6/29/79 EQC Action on Ozone

Per Mr. Young's request, attached are excerpts from the tape of the 6/29/79 EQC meeting dealing with the motion that was made on the ozone control strategy.

Attachment

EXCERPTS FROM TAPE OF JUNE 29, 1979 EQC MEETING CONCERNING MOTION REGARDING OZONE CONTROL STRATEGY

DENSMORE: Mr. Chairman, I would move that the amended language that John has spoken to in question number 1, page 6 of the summation: "Adopt the .12 ozone SIP revision submitted at the June 8, 1979 meeting as a stage strategy toward meeting the .08 state standard, and direct the Department to immediately forward them to EPA," be adopted.

PHINNEY: Second.

RICHARDS: Further discussion or questions on the motion? Call the roll.

YOUNG: Commissioners Somers (No); Hallock (Aye); Densmore (Aye); Phinney (Aye); Chairman Richards (Aye).

DENSMORE: Mr. Chairman, in your view what step would be necessary next to articulate the dates?

RICHARDS: Yes, I think some modification of two or three as they appear on page four. I still think we have to go back--we're going to adopt specific dates for attainment of .12 and .08 or we're going to adopt some modification of three that gives the Department a certain date in the future in which to tell us when we can meet .08.

DENSMORE: Mr. Chairman, I think that all this war of words could be solved if we talked about some specific dates at which we were going to attain .12 and .08. I think once that's resolved it would make everybody feel more comfortable.

RICHARDS: Do you have a motion?

DENSMORE: I believe that the .12 standard, not standard, stage, should be achieved by 1987; .08 should be reached by 1992. And that prior to 1987, lets say for the sake of example, by 1985 control strategies owuld be developed to reach .08/

RICHARDS: Up until 1985 when an applicant for a new source be told to meet .12.

DENSMORE: Yes.

RICHARDS: Would then beginning in 1985, the applicant be told to stage and meet .08?

DENSMORE: Yes.

PHINNEY: Even before 1985, he would be more or less on notice that eventually the .08 is going to be in effect. So that you're giving him a cushion of time there in which he can--

RICHARDS: Well, that's notice, but its a question of which standard is met when the plant goes into operation. So as long as you're stating that new plants will meet the .12 up until a certain date--I just want to be clear--

PHINNEY: Okay.

RICHARDS: Is that a motion?

DENSMORE: It's a motion.

RICHARDS: Is that in effect taking alternative two and putting those dates in there?

DENSMORE: Yes.

RICHARDS: It has been moved and seconded. Dr. Phinney.

PHINNEY: Mr. Chairman, this morning Mr. Weathersbee indicated that we had not really adopted the .08 ozone standard, which I thought we had. He thought it was still in the SIP as total chemical oxidants, .08. And I know we had talked about it at our last meeting in terms of an ozone standard, but I thought that perhaps since there is uncertainty we ought to clear that up at the same time--affirm the fact that we are talking about a .08 ppm standard for ozone and we have an ozone standard.

RICHARDS: I think that Mr. Densmore would be willing to make that a part of his motion.

DENSMORE: Certainly.

DENSMORE: Mr. Chairman, Mr. Underwood has advised it would be well to point out that there be a specific date in there of January 1 of that year, rather than just leave a year without a date in it.

PHINNEY: For both the 1985 and the 1992 and the 1987--all three?

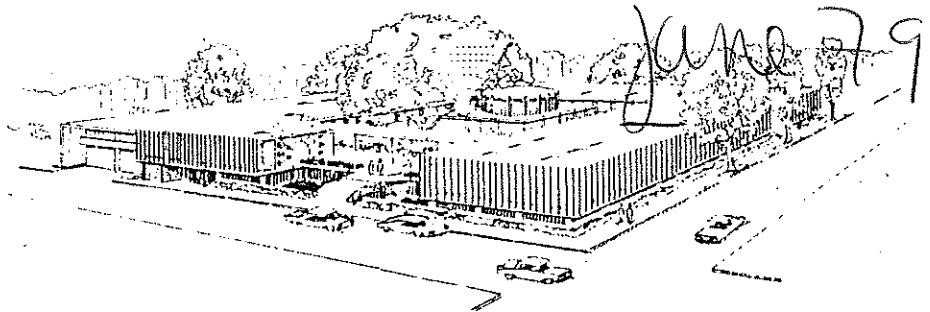
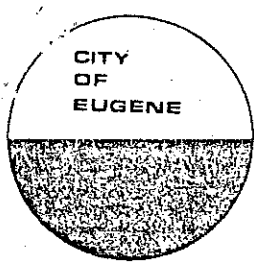
DENSMORE: I believe that would follow.

UNDERWOOD: It's ambiguous to leave it just the year--the normal interpretation of just the year would be January 1, but I think its better to express which day on the year you intend your action to take place.

DENSMORE: I think I would like to have December 31 of 1987 and 1992 and January 1 of 1985.

RICHARDS: Well, further discussion on the motion. It has been made and seconded that we in effect are using alternative two with the specified dates. It there further discussion. Call the roll.

YOUNG: Commissioner Somers (No); Hallock (Aye); Densmore (Aye); Phinney (Aye); Chairman Richards (Aye).



CIVIL DEPARTMENT

101 EAST BROADWAY, SUITE 401
EUGENE, OREGON 97401

503/687-5080

June 19, 1979

CERTIFIED -- RETURN RECEIPT REQUESTED

Douglas M. Costle
Administrator
Environmental Protection Agency
Washington, D.C. 20460

Re: Notice of Intent to Sue

Dear Mr. Costle:

On behalf of our client, the City of Eugene, we give you notice under the Clean Air Act §304(a)(2), 42 U.S.C. §7604(a)(2) that the City of Eugene will commence suit against you after the expiration of 60 days unless you perform the nondiscretionary duties outlined in CAA §122(a), 42 U.S.C. §7422(a). More specifically, the Administrator is required by CAA §122(a) to have ruled after public hearings on whether polycyclic organic matter (POM) concentrations in the ambient air "may reasonably be anticipated to endanger public health." That determination should have been made by August 7, 1978. To our knowledge, no such determination has yet been issued. As you are aware, the Act mandates a choice of three rulemaking options once an affirmative health impairment finding is made.

Residents of the City of Eugene are exposed every summer and fall to smoke intrusions from nearby agricultural open burnings. These emissions contain a high concentration of POMs. POM has been shown to be a carcinogen. Because of our health concerns we wish EPA to begin the process of regulating this pollutant.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED

JUN 25 1979

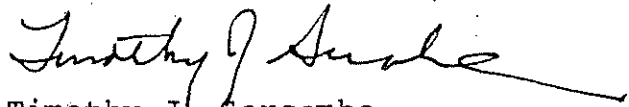
OFFICE OF THE DIRECTOR

Douglas M. Costle
June 19, 1979
page 2

Please advise us if this notice is defective under your regulations or if the POM finding is immediately forthcoming. Thank you for your consideration of this issue.

Very truly yours,

JOHNSON, HARRANG & MERCER
CITY ATTORNEYS

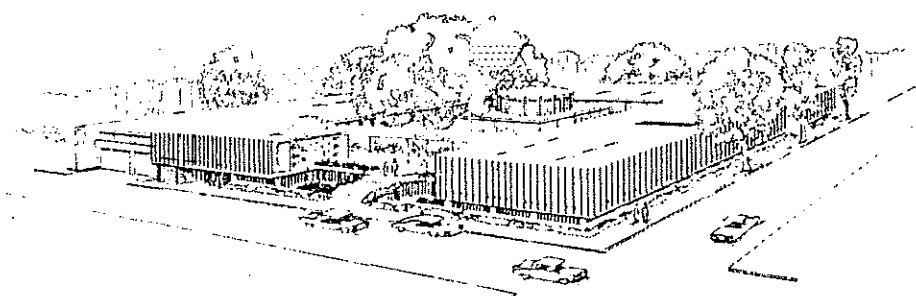
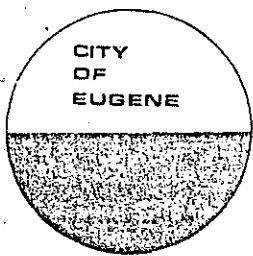


Timothy J. Sercombe

TJS:jlb

cc: Professor John Bonine
The Honorable James Weaver
Northwest Legal Advocates
Joe Richards
Donald P. Dubois
✓ William H. Young
Governor Victor G. Atiyeh

CC: SFF reuben
R. Underwood



CIVIL DEPARTMENT

101 EAST BROADWAY, SUITE 401
EUGENE, OREGON 97401

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
503/687-8088

RECEIVED

JUN 25 1979

June 19, 1979

OFFICE OF THE DIRECTOR

CERTIFIED MAIL -- RETURN RECEIPT REQUESTED

Joe Richards, Chairman
Environmental Quality Commission
777 High Street
Eugene, Oregon 97401

The Honorable Albert H. Densmore
Medford City Hall
411 W. 8th
Medford, Oregon 97501

Ronald M. Somers
106 E. 4th Street
P. O. Box 618
The Dalles, Oregon 97058

Jacklyn C. Hallock
c/o Ted Hallock Insurance
2445 N.W. Irving
Portland, Oregon 97210

Grace S. Phinney
1107 N.W. 36th
Corvallis, Oregon 97330

William H. Young, Director
Department of Environmental Quality
P. O. Box 1760
Portland, Oregon 97207

Governor Victor G. Atiyeh
Office of the Governor
State Capitol
Salem, Oregon 97310

Douglas M. Costle, Administrator
Environmental Protection Agency
Washington, D.C. 20460

Donald P. Dubois, Regional Administrator
Environmental Protection Agency, Region X
1200 Sixth Avenue
Seattle, Washington 98101

Re: Supplemental Notice of Intent to Sue Under 42 U.S.C.
§7604(b)

Ladies and Gentlemen:

By previous notice of May 18, 1979 you were advised that the City of Eugene intends to commence suit to restrain the issuance of open agricultural burning permits in excess of the 50,000 acre level mandated by the present Oregon State Implementation Plan. That notice was based upon the adoption of rules by the EQC on December 15, 1978 which contravened the present SIP restrictions.

According to state law, the Department of Environmental Quality has now issued permits for this summer's burning. This letter is to give you notice that the City of Eugene regards that permit issuance and any sub-

Supplemental Notice of Intent to Sue
June 19, 1979
page 2

sequent burning authorization in excess of 50,000 acres to be violative of the Clean Air Act. These actions are within the ambit of our May 18, 1979 Notice and will be the subject of forthcoming litigation under CAA §304.

Very truly yours,

JOHNSON, HARRANG & MERCER
CITY ATTORNEYS



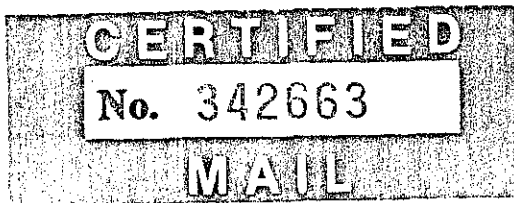
Timothy J. Sercombe

TJS:jlb

cc: Professor John E. Bonine
Honorable James Weaver
Northwest Legal Advocates

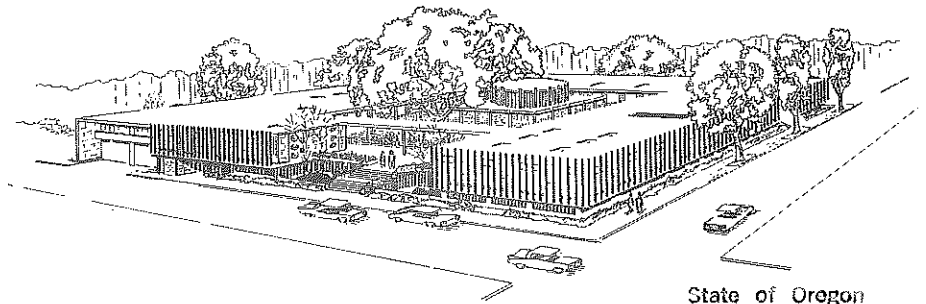
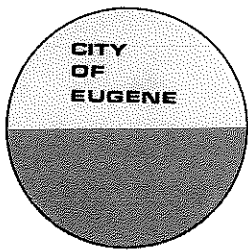
cc: R Underwood
S Freeborn

JIMOTHY J. SERCOMBE
CITY OF EUGENE
OFFICE OF THE CITY ATTORNEY
CIVIL DEPARTMENT
101 EAST BROADWAY, SUITE 401
EUGENE, OREGON 97401



RETURN RECEIPT
REQUESTED

William H. Young, Director
Department of Environmental Quality
P. O. Box 1760
Portland, OR 97207



CIVIL DEPARTMENT ————— 101 EAST BROADWAY, SUITE 401
EUGENE, OREGON 97401

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
503/687-5080

RECEIVED

MAY 24 1979

May 18, 1979

OFFICE OF THE DIRECTOR

Joe Richards, Chairman
Environmental Quality Commission
777 High Street
Eugene, Oregon 97401

The Honorable Albert H. Densmore
Medford City Hall
411 W. 8th
Medford, Oregon 97501

Ronald M. Somers
106 E. 4th Street
P. O. Box 618
The Dalles, Oregon 97058

Jacklyn C. Hallock
c/o Ted Hallock Insurance
2445 N.W. Irving
Portland, Oregon 97210

Grace S. Phinney
1107 N.W. 36th
Corvallis, Oregon 97330

William H. Young, Director
Department of Environmental Quality
P. O. Box 1760
Portland, Oregon 97207

Re: Notice of Intent to Sue Under 42 U.S.C. §7604(b)

Ladies and Gentlemen:

On December 15, 1978, the Environmental Quality Commission adopted rules allowing the issuance of permits for agricultural open burning during 1979 for more than 50,000 acres. Under the present State Implementation Plan the Environmental Quality Commission may not by order issue permits for the burning of more than 50,000 acres. 40 Fed. Reg. 20131 (April 18, 1977). According to state law, the Department of Environmental Quality will issue permits by June 1, 1979 for the burning of acres in excess of this limitation.

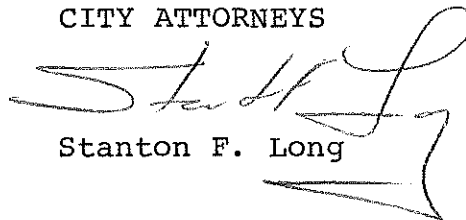
Where the Environmental Protection Agency has approved an applicable implementation plan the State may not adopt or enforce a less stringent one. See, Air Pollution Variance Bd. v. Western Alfalfa, 416 U.S. 861, 863 (1974); St. Joe Minerals Corp. v. Environmental Pro. Agcy., 508 F2d 743, 748 (3rd Cir. 1975). Clean Air Act §110(h), 116, 42 U.S.C. §§7410(h), 7416. The adoption of rules relaxing present SIP controls and emission limitations on field burning by the EQC violated the Clean Air Act §110(h) and 116. Accordingly, its members are amenable to suit under §304 of the Act.

We wish to advise you that the City of Eugene will commence an action under the Clean Air Act §304, 42 U.S.C. §7604(a)(1) against the individual members of the EQC and the operating head of the Department of Environmental

Quality unless appropriate action is taken. Declaratory and injunctive relief will be sought. In giving this notice the City of Eugene does not waive the contention that no notice of intent to sue is needed by reason of its prior notice of April 12, 1978.

Very truly yours,

JOHNSTON, HARRANG & MERCER
CITY ATTORNEYS



Stanton F. Long

SFL:jlb

cc: Douglas M. Costle, Administrator
Environmental Protection Agency
Washington, D.C. 20460

Donald P. Dubois, Regional Administrator
Environmental Protection Agency, Region X
1200 Sixth Avenue
Seattle, Washington 98101

Governor Victor G. Atiyeh
Office of the Governor
State Capitol
Salem, Oregon 97310

Lane County Legislative Delegation

Professor John Bonine
School of Law
University of Oregon
Eugene, Oregon 97403

Honorable James Weaver
Congressman, 4th District
U.S. House of Representatives
1238 Longworth House Office Building
Washington, D.C. 20515

PUBLIC INTEREST
**LEGAL
ADVOCATES**

A NON-PROFIT PUBLIC INTEREST LAW FIRM

795 WILLAMETTE STREET SUITE 216 EUGENE OREGON 97401 503/485-5222

DOUGLAS C. BAYERN ATTORNEY
KAREN M. HOLT ATTORNEY
SUSAN ROBERTSON PEASE ATTORNEY
ROBERT A. TAYLOR ATTORNEY

*File A.G. - Field Burning
Smoke Mgt*

(Ray Underwood has copies)

June 13, 1979

6-22-79

EW-

.CC: SAF

William H. Young, Director
Department of Environmental Quality
P.O. Box 1760
Portland, OR 97207

Dear Mr. Young:

We have this date under separate cover filed with your office a Notice of Intent to File Citizen Suit under the Clean Air Act against the Department of Environmental Quality. The suit will be based upon the Department's issuance of field burning permits for more than 50,000 acres, an action which is in violation of a provision of the State Implementation Plan (ORS 468.475 as amended by the 1975 Legislature and incorporated into the SIP at 40 C.F.R. §52.1970(c) (23)(1978)).

This letter is to notify you that, in addition to our clients Nancie Fadeley and Janet Gillaspie, we will also be representing the Oregon Environmental Council in this action and in the two related actions against EPA of which we have also given you notice.

Sincerely,

Robert A. Taylor
Robert A. Taylor

RT:ba

INDEPENDENT
LEGAL
ADVOCATES

A NON-PROFIT PUBLIC INTEREST LAW FIRM

795 WILLAMETTE STREET SUITE 216 EUGENE OREGON 97401 (503) 465 5222

DOUGLAS C BAYERN ATTORNEY
KAREN M HOLT ATTORNEY
SUSAN ROBERTSON PEASE ATTORNEY
ROBERT A TAYLOR ATTORNEY

June 13, 1979

William H. Young, Director
Department of Environmental Quality
P.O. Box 1760
Portland, Oregon 97207

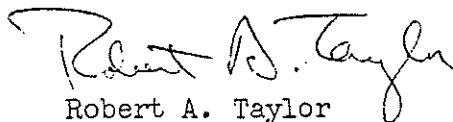
Dear Mr. Young:

Enclosed please find:

- Notice of citizen suit under § 304(a)(1) of the Clean Air Act against the Department for violation of the Oregon State Implementation Plan
- Notice of citizen suit under § 304(a)(2) of the Clean Air Act against the EPA for failure to issue a notice of violation against the Department for violations of the Implementation Plan during 1978
- Notice of citizen suit under § 304(a)(2) of the Clean Air Act against the EPA for failure to regulate polycyclic organic matter as required by § 122(a) of the Act

Please notify our office of any action that the Department intends to take in relation to the above actions.

Sincerely,


Robert A. Taylor

RT:ba
Enc.

INDUSTRIAL
LEGAL
ADVOCATES

A NON-PROFIT PUBLIC INTEREST LAW FIRM

795 WILLAMETTE STREET SUITE 216 - EUGENE - OREGON 97401 (503) 485 5222

DOUGLAS C. BAYERN - ATTORNEY
KAREN M. HOLT - ATTORNEY
SUSAN ROBERTSON PEASE - ATTORNEY
ROBERT A. TAYLOR - ATTORNEY

June 13, 1979

William H. Young, Director
Department of Environmental Quality
P. O. Box 1760
Portland, Oregon 97207

Re: Notice of Intent to File Citizen Suit

Dear Mr. Young:

The Oregon State Implementation Plan (SIP) for the Clean Air Act (42 U.S.C. 7401 et seq.) was revised effective April 18, 1977 (42 Fed. Reg. 20, 131 (1977)) to incorporate, among others, the provisions of ORS 468.450 through 468.485 as amended by the 1975 session of the Oregon Legislature (codified at 40 C.F.R. 52.1970(c)(23)(1978)). ORS 468.475 as incorporated prohibits the Department of Environmental Quality from issuing field burning permits in excess of 95,000 acres for 1977, and in excess of 50,000 acres in 1978 and thereafter.

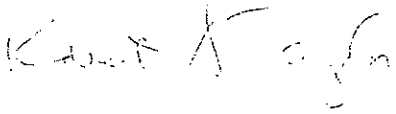
In both 1977 and 1978, the Department issued permits considerably in excess of the SIP limits. There is every reason to believe that the Department will issue permits in excess of the 50,000 acre SIP limit for the summer burning season of 1979.

This is to notify you that our office, on behalf of our clients, Nancie Fadeley and Janet Gillaspie, intends to file a citizen suit under 304(a)(1) of the Clean Air Act (42 U.S.C. 7604(a)(1)) against the Department of Environmental Quality to compel the Department to comply with the limits of the current SIP.

We are filing this notice primarily as a courtesy to the Department and by filing we do not intend to waive the right to proceed immediately to court without waiting for 60 days to elapse. Notice has been given to the Department as early as April of 1978 by the City of Eugene that a citizen suit would be brought to enforce the provisions of the SIP. That notice has been repeated, both formally by the City and by our client's public statements on the floor of the Oregon Legislature. The purpose of the notice of intent to file suit is to

enable the alleged violator to correct the violations of the SIP. The Department has been given ample opportunity to take corrective action within the requirements of the Clean Air Act. That corrective action has not yet been taken and there are no indications that our waiting 60 days to file suit would yield satisfactory results. We, therefore, shall proceed to court as soon as conditions dictate.

Sincerely,



Robert A. Taylor
Of Northwest Legal Advocates
For Nancie Fadeley and Janet Gillaspie

RT:pp

cc: Representative Nancie Fadeley
Janet Gillaspie
House of Representatives #285
State Capitol
Salem, Oregon 97310

Douglas M. Costle, Administrator
Environmental Protection Agency
Washington, D. C. 20460

Donald P. Dubois, Regional Administrator
Environmental Protection Agency, Region X
1200 Sixth Avenue
Seattle, Washington 98101

Governor Victor G. Atiyeh
Office of the Governor
State Capitol
Salem, Oregon 97310

LEGAL ADVOCATES

A NON-PROFIT PUBLIC INTEREST LAW FIRM

795 WILLAMETTE STREET SUITE 216 EUGENE OREGON 97401 (503) 485 5222

DOUGLAS C. BAYERN ATTORNEY
KAREN M. HOLT ATTORNEY
SUSAN ROBERTSON PEASE ATTORNEY
ROBERT A. TAYLOR ATTORNEY

June 13, 1979

Douglas M. Costle, Administrator
Environmental Protection Agency
Washington, D. C. 20460

Re: Notice of Intent to File Citizen Suit

Dear Mr. Costle:

Section 113(a)(1) of the Clean Air Act (42 USC §7413(a)(1)) requires that whenever information available to the Administrator indicates that any person is in violation of any requirement of an applicable state implementation plan (SIP), the Administrator must notify the alleged violator and the relevant state authority that such a violation has occurred.

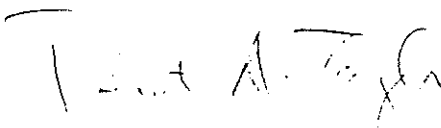
As incorporated by the Oregon State Implementation Plan (40 C.F.R. §52.1970(23)(1978)) ORS §458.475 as amended by the 1975 legislature prohibits the state Department of Environmental Quality from issuing permits for open field burning in excess of 95,000 acres in 1977 and in excess of 50,000 acres in 1978 and thereafter. In both years permits were issued by the Department considerably in excess of the SIP limits. In March of 1978, the Administrator issued a notice of violation to the Department for the year 1977. No such notice for 1978 has been issued.

The Administrator is well aware of, and in fact supported, the Department's violation of the 1978 limits. Under §113(a), the EPA has the discretion whether or not to prosecute violators of an applicable SIP. The EPA exercised that discretion in 1978 by not prosecuting the Department and other SIP violators, but instead creating an "interim control strategy" for 1978. However, §113(a) makes mandatory upon the Administrator the duty to issue a notice of violation to any person (defined in §302(e) to include the state) found by the Administrator to be in violation of the SIP. The 1978 "interim control strategy" indicates by its existence that the Administrator had found a violation by the Department to be occurring in 1978. The Administrator therefore had a nondiscretionary duty to issue a notice of violation to the Department for the 1978 field burning season.

Douglas M. Costle
June 13, 1979
Page 2

On behalf of our clients, Nancie Fadeley and Janet Gillaspie, our office intends to file a citizen suit under §304(a)(2) to compel the Administrator to issue a notice of violation for the 1978 season to the Oregon Department of Environmental Quality.

Sincerely,


Robert A. Taylor
Of Northwest Legal Advocates

RT:pp

cc: Representative Nancie Fadeley
Janet Gillaspie
House of Representatives #286
State Capitol
Salem, Oregon 97310

Donald Dubois, Regional Administrator
Environmental Protection Agency, Region X
1200 Sixth Avenue
Seattle, Washington 98101

William H. Young, Director
Department of Environmental Quality
P. O. Box 1760
Portland, Oregon 97207

LEGAL ADVOCATES

A NON-PROFIT PUBLIC INTEREST LAW FIRM

795 WILLAMETTE STREET SUITE 216 EUGENE OREGON 97401 503/485 5222

DOUGLAS C. BAYERN ATTORNEY
KAREN M. HOLT ATTORNEY
SUSAN ROBERTSON PEASE ATTORNEY
ROBERT A. TAYLOR ATTORNEY

June 13, 1979

Douglas M. Costle, Administrator
Environmental Protection Agency
Washington, D. C. 20460

Re: Notice of Intent to File Citizen Suit

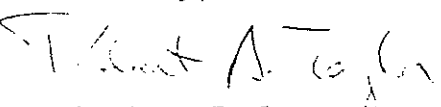
Dear Mr. Costle:

Section 122(a) of the Clean Air Act (42 USC §7422(a)) directs the Administrator to review all available relevant information and determine whether or not emissions of polycyclic organic matter (POM) into the atmosphere will cause or contribute to air pollution which endangers public health. If POM is determined to be a health hazard, §122 directs that the Administrator choose from among three possible courses of action to regulate POM emissions. The determination required by §122 and the choice of what regulatory action to take was required by the Act to be taken within one year of the adoption of the 1977 Amendment to the Clean Air Act. The one year time limit has expired without any action being taken.

Agricultural open field burning is currently practiced on a broad scale in the Willamette Valley in which the majority of Oregon's population lives and works. Field burning is a known source of emissions of POM into the atmosphere. As early as 1972, studies showed POM to be carcinogenic to humans.

On behalf of our clients, Nancie Fadeley and Janet Gillaspie, our office intends to file a citizen suit under §304(a)(2) of the Clean Air Act to compel the Administrator to perform the nondiscretionary duty imposed on him by §122(a) to regulate these dangerous pollutants.

Sincerely,

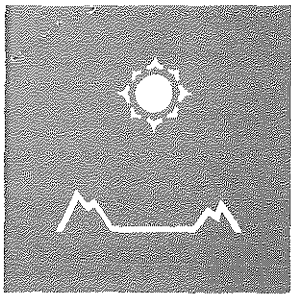

Robert A. Taylor
Of Northwest Legal Advocates

RT:pp

cc: Representative Nancie Fadeley
Janet Gillaspie
House of Representatives #285
State Capitol
Salem, Oregon 97310

Donald Dubois, Regional Administrator
Environmental Protection Agency, Region X
1200 Sixth Avenue
Seattle, Washington 98101

William H. Young, Director
Department of Environmental Quality
P. O. Box 1760
Portland, Oregon 97207



6-29-79
EPC file

MID WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS

400 SENATOR BUILDING ★ 220 HIGH ST. N.E., SALEM, OREGON 97301

TELEPHONE (503) 588-6177

ALAN H. HERSHEY, *Director*

June 18, 1979

Joe B. Richards
Chairman, Environmental Quality Commission
P.O. Box 10747
Eugene, OR 97401

Dear Mr. Richards:

Enclosed is a copy of Mid Willamette Valley Council of Governments' Resolution No. 6-79 which adopts the Draft Oregon State Clean Air Act Implementation Plan Revisions as they pertain to the Salem area -- Sections 4.4, 4.5, 5.4 and 5.5.

The COG Board of Directors adopted this resolution at their meeting on June 12, 1979. With this action our work as the Lead Agency for the SIP revision is complete.

Sincerely,

Mayor Elvern Hall, Chairman
COG Board of Directors

MEADOWS/r

cc: William Young, Director, DEQ
Fred Klaboe, Director, ODOT

MEMBER AGENCIES:

State of Oregon. **COUNTIES:** Marion, Polk, Yamhill. **CITIES:** Amity, Aumsville, Aurora, Carlton, Dallas, Dayton, Detroit, Falls City, Gervais, Hubbard, Idanha, Independence, Jefferson, Lafayette, McMinnville, Monmouth, Mt. Angel, Newberg, Salem, Sheridan, Silverton, Stayton, Sublimity, Turner, Willamina, Woodburn. **SPECIAL DISTRICTS:** Chemeketa Community College, Marion County Fire District # 1, Marion County Education Service District, Yamhill County Education Service District, Marion, Polk and Yamhill Soil & Water Conservation Districts, Salem School District 24J.

RESOLUTION NO. 6-79

OREGON STATE IMPLEMENTATION PLAN
1979 REVISIONS

WHEREAS, the Mid Willamette Valley Council of Governments was designated by the Governor of Oregon as the Lead Agency for coordinating and preparing air quality plans under Section 174 of the Clean Air Act Amendments of 1977; and

WHEREAS, there is a Memorandum of Understanding between Marion County, Polk County, the City of Salem and Mid Willamette Valley COG designating the said Council of Governments as the Lead Agency under Section 174 of the Clean Air Act Amendments of 1977; and

WHEREAS, the Mid Willamette Valley Council of Governments has been designated by the State of Oregon as the official Metropolitan Planning Organization for the Salem Urban Area; and

WHEREAS, the Coordinating Committee of the Salem Area Transportation Study is authorized by Resolution of the Mid Willamette Valley Council of Governments to act on its behalf in all matters relating to transportation planning; and

WHEREAS, the Coordinating Committee of the Salem Area Transportation Study was actively involved in developing the Salem transportation portion of the Oregon State Implementation Plan Revisions of 1977; and

WHEREAS, the Oregon State Implementation Plan will guide the Salem Urban Area to attain National Ambient Air Quality standards by December 31, 1982 without imposing undue economic constraints; and

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MID WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS

THAT the Board of Directors hereby adopts the Oregon State Implementation Plan Sections 4.4, 4.5, 5.4, and 5.5 pertaining to the Salem Urban Area and the 1979 revisions thereto.

APPROVED by the Board of Directors of the Mid Willamette Valley Council of Governments on the 12th day of June, 1979.



Mayor Elvern Hall, Chairman

3M Company Testimony
OZONE STRATEGY
June 29, 1979
Portland, Oregon

MR. CHAIRMAN AND MEMBERS OF THE COMMISSION:

I'M SCOTTY McARTHUR, VICE PRESIDENT OF THE 3M MICROGRAPHICS DIVISION, WHICH OPERATES A MANUFACTURING PLANT AT WHITE CITY THAT EMPLOYS MORE THAN 300 PEOPLE. MY JOB IS TO SEE THAT THIS AND OTHER FACILITIES OF MY DIVISION ARE RESPONSIVE TO THE NEEDS OF THEIR COMMUNITIES AND OUR COMPANY.

WE SHARE YOUR CONCERN THAT THERE ISN'T AS MUCH SOLID INFORMATION ON THE HEALTH EFFECTS OF OZONE AS EVERYONE WOULD LIKE. BUT, AS OUR PREVIOUS TESTIMONY INDICATES, WE HAVE RESEARCHED AVAILABLE MAJOR HUMAN HEALTH STUDIES -- INCLUDING ASTHMATICS -- AND FIND THE RESULTS DO NOT AT THIS TIME JUSTIFY AN OZONE STANDARD LOWER THAN POINT ONE TWO (.12) PARTS PER MILLION. HOWEVER, FURTHER STUDY IS WARRANTED, AND 3M IS WILLING TO COOPERATE WITH APPROPRIATE PUBLIC AGENCIES, IF NEEDED.

(MORE)

WE ARE CONCERNED THERE ISN'T AS MUCH AVAILABLE DATA ON OZONE CHARACTERISTICS IN OREGON AS WE WOULD LIKE. THEREFORE, 3M COMMISSIONED A COSTLY STUDY OF OZONE IN THE MEDFORD AREA LAST YEAR. WHILE THE RESULTS SHOW THE NEED FOR MORE STUDY, THE DATA ALSO CONVINCED US THAT MEDFORD CANNOT ACHIEVE A POINT ZERO EIGHT (.08) PARTS PER MILLION OZONE STANDARD IN THE FORSEEABLE FUTURE. ONE REASON IS THAT WE DISCOVERED HIGH OZONE READINGS IN REMOTE LOCATIONS AWAY FROM THE MEDFORD URBAN AREA.

background

WE ARE CONCERNED ABOUT THE VOC EMISSIONS FROM OUR WHITE CITY PLANT, AND HAVE SPENT HUNDREDS OF ENGINEERING HOURS ON VOC CONTROL STRATEGIES. AND WE DEVELOPED WHAT WE CONSIDER THE BEST AVAILABLE CONTROLS FOR OUR PLANT -- IN THE FORM OF A MULTI-MILLION DOLLAR INERT GAS DRYING SYSTEM. THIS SYSTEM ^{will} CAN MEET THE VOC EMISSION LIMITS ASSOCIATED WITH A POINT ONE TWO (.12) OZONE STANDARD, BUT IT CANNOT EFFECTIVELY MEET THE REQUIREMENTS MANDATED BY A POINT ZERO EIGHT (.08) STANDARD.

By the End of 1982

WE ARE CONCERNED THAT OUR INVESTMENT IN THIS ADVANCED CONTROL TECHNOLOGY WOULD NOT BE FEASIBLE IF MEDFORD CANNOT MEET A POINT ZERO EIGHT (.08) OZONE STANDARD OVER THE NEXT TEN YEARS, WHICH WOULD COVER THE EARLY LIFE OF THE SYSTEM.

WE ARE INDEED CONCERNED ABOUT THE FUTURE OF 3M AND OUR ABILITY TO GROW IN MEDFORD. I HAVE TRAVELED HERE FROM MINNESOTA TO CONVEY THAT MESSAGE.

WE REMAIN OPTIMISTIC THAT A REASONABLE MEANS CAN BE FOUND TO BALANCE THE STATE'S HEALTH, ENVIRONMENTAL, ECONOMIC AND OTHER CONCERNS. THE DIRECTOR'S SUMMARY AND RECOMMENDATIONS CONCERNING OZONE STRATEGY POINT IN THIS DIRECTION.

IN THIS REGARD, AND BECAUSE OF THE CONCERNS I HAVE MENTIONED, 3M URGES THE COMMISSION TO ADOPT A POINT ONE TWO (.12) OZONE STANDARD, AND TO CONSIDER SETTING A GOAL OF REACHING A LOWER FIGURE SUCH AS POINT ZERO EIGHT (.08) SOMETIME AFTER 1987.

A STANDARD, AFTER ALL, IS A CURRENT MEASURE OF PERFORMANCE OR COMPLIANCE -- BASED ON ESTABLISHED DATA SUBJECT TO CHANGE AS NEW DATA BECOMES AVAILABLE. BUT A GOAL IS THE END TO WHICH AN EFFORT IS DIRECTED.

AT 3M, WE BELIEVE A POLICY DECISION TO ACHIEVE A POINT ONE TWO (.12) OZONE STANDARD BY 1987 AND REACH A GOAL OF A LOWER FIGURE SOMETIME LATER WOULD BE A RESPONSIBLE APPROACH THAT WOULD SHOW ENVIRONMENTAL LEADERSHIP.

IT IS A CHALLENGING STRATEGY, BUT ONE THAT 3M -- AND I THINK MANY OTHERS -- WOULD BE ABLE TO SUPPORT.

THANK YOU.

PROFESSIONAL CONSULTING GEOLOGIST

SUBSURFACE WATER • ENVIRONMENTAL IMPACT

RESOURCE EVALUATION

(503) 389-5461

P. O. BOX 856, BEND, OREGON 97701

June 28, 1979

Oregon Environmental Quality Commission
Joe B. Richards, Chairman
Portland, Oregon

RE: Bend Sewage Treatment Plant effluent disposal

Dear Mr. Chairman,

We have been requested to comment on the disposal of treated sewage effluent from the new Bend Sewage Treatment Plant by subsurface means. We have also been asked to evaluate briefly surface ponding in nearby closed basins as an alternative to pumping effluent into the regional water table.

Contamination of subsurface water by sewage effluent in the Deschutes Basin has been a matter of concern for at least 15 years. Subsurface sewage disposal in the Deschutes Basin was studied by the Federal Water Pollution Control Administration in the late 1960's. This federal report outlined the hazards to water quality posed by subsurface disposal. The hazard was reiterated by us in recent correspondence with Mayor Samuel S. Johnson of Redmond (see attached).

In our opinion, sewage effluent injected to the subsurface will intercept the regional water table forming a layer of non-potable water "floating" on the surface of the existing water table. This layer of contaminated water will migrate northward and should reach Redmond Municipal water wells 1 to 5 years after injection. Even an interim injection of contaminated waters will pollute these wells, degrading water quality at the very least, or possibly rendering them unacceptable for domestic purposes. Pollution can be expected to linger on significantly after the source is eliminated.

The threat of contamination of subsurface water by subsurface sewage disposal is what prompted the state to compel Bend to sewer. The solution proposed is disposal of effluent in a few giant drilled holes. In place of a threat of contamination we are offered certain pollution of the regional groundwater supply. Rapid lateral migration of water above the water table in lava tubes is known in the area and is a serious threat to all wells down gradient that are not cased and pressure grouted to the water table. Accordingly, we know of no well immune to the hazards of subsurface injection, whether or not the injection is to the water table. Hundreds of individual wells will be polluted



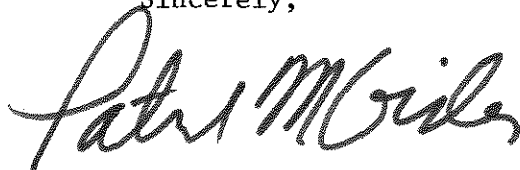
along with municipal wells. Secondary treatment does not mitigate the certain degradation proposed even if on a temporary basis. In our opinion, neither the existing threat of subsurface sewage disposal nor the certain pollution proposed is acceptable.

State statutes and common sense both compel us to seek another solution. The Bend Treatment Plant is located near several closed basins. The nearest basin contains about 80 acres. We estimate 600 to 1,000 acres of ponding surface are potentially available using a reasonable excavation program to connect and maximize the available resources. Basins could be used to store effluent, evaporate effluent and to allow slow seepage of effluent. With the help of larger basins, spray irrigation could become economic. These ponds would not be suitable for recreation or fish and wildlife, and would have to be fenced.

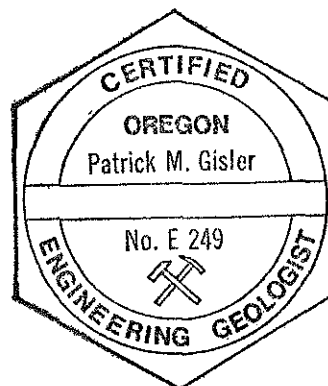
Attached is an estimated water balance of precipitation and pan evaporation. Using NOAA Climatological Survey number 20-35, Temperature and Water Balance for Oregon Weather Stations Special Report number 150, data courteously supplied by Intrawest Weather, P.O. Box 5185, Bend, and with very special assistance from meteorologist Jack Mercer, calculation of a water balance for our area indicates that about 24 gallons of water will evaporate each year for each square foot of pond. If evaporation is the only process considered, with no losses due to seepage, temperature effect from algae, plant transpiration or capillary evaporation, about 700 acres would completely handle the interim projected effluent flow of 2 million gallons per day. In our opinion these effects would significantly reduce the acreage required. Using evaporation basins for ultimate plant capacity, 2,000 acres could be needed theoretically. However, seepage losses and a supplementary small spray irrigation system could probably enable full plant capacity using the 600 to 1,000 acres of existing natural closed basin.

We recommend that permits for drilled holes for subsurface injection of sewage effluent be denied. We recommend the Commission recommend evaluation and a field test of surface ponding and evaporation for effluent disposal. We are blessed with low humidity and sunshine and we should use them to solve our environmental problems.

Sincerely,



PG/bb
Enclosures



PROFESSIONAL CONSULTING GEOLOGIST

SUBSURFACE WATER • ENVIRONMENTAL IMPACT

RESOURCE EVALUATION

(503) 389-5461

P. O. BOX 856, BEND, OREGON 97701

April 27th, 1979

Mayor Sam Johnson
City of Redmond
Redmond, OR 97756

RE: Subsurface Sewage Injection

Dear Sam,

As per our recent conversation, we are writing to advise you of our concerns about the proposed injection of sewage effluent from the new Bend Sewage Disposal plant northeast of Bend.

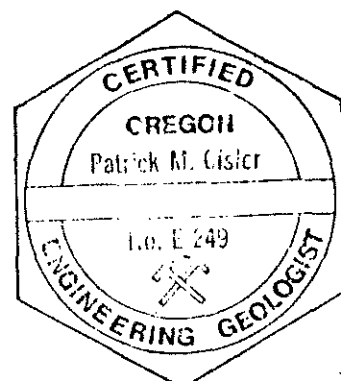
Briefly, the proposed injection locations are some 10 miles due south of Redmond. In 1968, the Federal Water Pollution Control Administration studied the Central Oregon area in a report titled "Liquid Waste Disposal in the Lava Terrane of Central Oregon", Report FR-4, by Jack E. Sceva. This detailed report on subsurface water and threats to it makes a number of findings. Among these is the finding that groundwater migrates essentially due north in the area. Secondly, the groundwater migration velocity averages at least 9,000 feet per year. Thirdly, effluent disposed of in the subsurface migrates downward until it reaches the water table, then laterally with the groundwater.

Based on these findings, effluent from the Bend Disposal wells could be expected to arrive in Redmond area wells in 5.5 years or less.

Other data from personal observation of velocities in drilled wells 2 and 3 miles southwest from the injection area show velocities within an order of magnitude of 200 feet per day. Effluent could accordingly arrive in Redmond less than 1 year from injection.

Clearly, the proposed injection of effluent is a hazard to subsurface water quality in Redmond. Redmond should demand that these earlier studies be updated and either confirm or contradict their findings. Alternatively, another means of effluent disposal should be demanded.

Sincerely,



PG/bb



WATER BALANCE

	PRECIP. "	EVAP "	NET "	NET GAL/SQFT MONTH
J	1.4	0.5	+ 0.9	+ 0.56
F	0.9	0.84	0.0	0.
M	0.7	2.48	- 1.8	- 1.12
A	0.6	4.65	- 4.1	- 2.56
M	0.9	5.76	- 4.9	- 3.05
J	1.1	7.59	- 6.5	- 4.05
J	0.4	8.90	- 8.5	- 5.30
A	0.4	7.23	- 6.8	- 4.24
S	0.4	4.63	- 4.2	- 2.62
O	0.8	3.07	- 2.3	- 1.43
N	1.2	2.70	- 1.5	- 0.94
D	1.5	0.60	+ 0.9	+ 0.56
				<u>- 24.19 GAL/SQ FT YE</u>

$$2,000,000 \frac{\text{GAL}}{\text{DAY}} \times 365 \text{ DAY} \times \frac{1 \text{ SQ FT YE}}{24.19 \text{ GAL}} =$$

$$30,178,000 \text{ SQ FT} = 700 \text{ ACRES}$$

∴ $6,000,000 \frac{\text{GAL}}{\text{DAY}}$ REQUIRES ABOUT 2000 ACRES
TO EVAPORATE COMPLETELY EACH YEAR

ASSUMES NO SEEPAGE

ASSUMES NO TEMPERATURE EFFECT FROM ALGAE

ASSUMES NO PLANT TRANSPIRATION

ASSUMES NO CAPILLARY EVAPORATION

**PRODUCTS
FROM
NATURE**

PRIDAY'S SHAKLEE
1281 N.W. WALL
BEND, OREGON

GORDON & BETTY PRIDAY
"INDEPENDENT DISTRIBUTOR"

- Quality Food Supplements
- Easy Weight-Loss Plan
- Organic, biodegradable cleaners
 - Non-Allergenic Cosmetics

Cash Bonuses Paid.

382-8857

To: Oregon Environmental Quality Commission
Joe Richards and Board Members

From: Gordon S. Priday, 61655 Ward Road, Bend, Or. 97701 PH: 382-8857
A central Oregon rancher and Bend businessman who is very concerned
about our Central Oregon environmental quality.

In March, 1977, the city of Bend put out a sewer financing plan, in which they stated, "As long ago as 1969, the State Department of Environmental Quality (DEQ) recognized that septic tanks, now used by most Bend residents, were discharging sewage wastes into the ground-water and contaminating the water supply."...

Bend has never seriously considered any disposal method except drainwells. (Some other studies have been made by EPA). IN almost ~~66666~~ three years no Impact Statement has been completed.

Madras, Redmond and Prineville all have new sewer systems using surface disposals. Now, the city of Bend, says that due to the short time left to complete the sewer system (JULY 1980 or JAN. 1981) they must be allowed to put this affluent down a well; from two million gallons up to six million gallons per day.

✓ On June, 18, 1979, in a Seattle meeting, the EPA approved a subsurface drill hole for affluent disposal.

The new sewer plant will be a 20/20 two-stage plant--when it is working at 100% efficiency.

Now, Dick Nicholes of D.E.Q. is writing the City of Bend a permit for subsurface waste disposal wells. (A permit to pollute the Central Oregon underground water resource; Only a matter of time until health problems develop, (in my opinion). A MAJOR CATASTROPHY!!

The permit is for a 100 foot well. The water table at the sewage plant is 492 feet and 200 feet deep. This leaves 392 feet of lava and crevices between the sewage well and the water table.

THE CASE FOR SURFACE DISPOSAL:

The sewer plant is on the edge of the desert N.W. of Bend at the edge of thousands of acres of BLM land.

Within 1500 feet of the plant is an 80 A. dry lake bed with 15 feet of sand and loam over the lava and pumice. 1500 feet from this dry lake is another lake of several hundred acres. THESE PROVIDE A PERFECT AND NATURAL SETTING FOR PERCOLATION AND EVAPORATION PONDSS AT A VERY LOW COST.

I have asked the City of Bend to consider using these dry lake beds: With a natural wild-like habitat in mind, as well as a means of de-contaminating the underground water...supply.

AFTER REVIEWING ALL THE ASPECTS OF THIS PROJECT, I AM SURE YOU WILL FIND THAT THERE IS A BETTER WAY TO DISPOSE OF THE AFFLUENT FROM THE BEND SEWAGE PLANT THAN WASTEX DISPOSAL WELLS.

For more information you may call Tom Throop, state representative, or Ken Mathiot of Oregon State ~~*****~~ Dept. of Water Resources.

Thankyou for your attention,

Gordon S Priday

PUTTING SLUDGE TO WORK

A new approach to wastewater renovation, developed by Michigan State University, utilizes a system of lakes and marshes and land irrigation in conjunction with a traditional wastewater treatment plant.

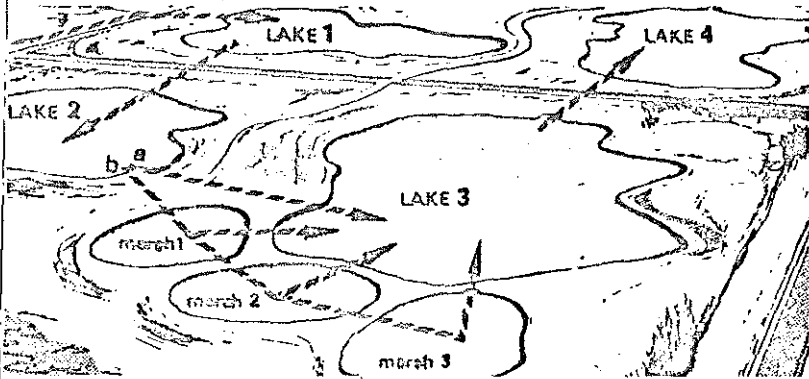


Illustration of the Michigan State University lake system with arrows indicating flow. Water can be discharged from Lake 2 directly into Lake 3 by route a, or into the marshes by route b.

❑ If all the nation's sludge were incinerated, it would take 900-million gallons annually of crude oil to run the incinerators — about eighteen percent of the nation's yearly oil consumption. It could also cause air pollution and an unpleasant odor for nearby and not so nearby residents.

❑ Ocean dumping, although cheap and long used by coastal communities damages marine life, pollutes water and can create unsafe beaches. And recent amendments to the Marine Protection, Research, and Sanctuaries Act will end ocean dumping by 1982.

❑ Landfills across the country are filling up, and it's difficult or impossible to acquire new sites. It's also costly to buy land and transport the sludge.

SLUDGE, the unavoidable solid matter that remains after municipal wastewater is treated, is becoming an increasing problem for municipalities, as the three most common forms of disposal are becoming economically or environmentally unfeasible. Investigations into new methods of disposal and treatment methods that do not produce as much sludge are becoming increasingly popular — and necessary.

A new approach to wastewater renovation has been developed by Michigan State University (MSU), and it appears to be unique. A complex system of lakes and

marshes and land irrigation, it works with a traditional wastewater treatment plant. Systems like this, using land application, are being researched in many areas, but seldom so successfully as at MSU. This system has potential superior to conventional treatment plants because biological materials can be harvested and put to economic use, scarce nutrients can be recycled, and municipal wastewater can be cleaned in a process that uses solar energy.

The MSU project began in December, 1967, when Dr. Robert C. Ball, former Director of the Division of Natural Resources at MSU, submitted their proposal to the university's approving board of trustees. The next step was to get funding for the project.

Grants were received from the Ford, Rockefeller, and Kresge Foundations as well as from the U.S. EPA and the Michigan Water Resources Commission. The groundbreaking ceremony was held on October 27, 1972, and by the following October the project was completed. Its total cost was \$2,398,979.

The MSU system consists of four man-made lakes and three marshes, which have been sealed with native clay so that harmful substances cannot seep into ground water at any point in the process.

About two-million gallons of municipal wastewater per day are pumped from the East Lansing Sewage Treatment Plant, five miles away. This is about one-fifth of the plant's daily average flow. The MSU system can accept raw sewage, with no pre-treatment, which is unusual for this type of facility. Wastewater from the East Lansing plant is pumped to the first lake, where it is cleansed of polluting nutrients by lake vegetation. The lakes have a total surface area of thirty acres, with a maximum depth of about six feet.

Each lake has a different elevation and depth to promote the growth of various aquatic plants that clean the water. These plants are then harvested for compost or processed into pellets for chicken or cattle feed.

By the time the water reaches the fourth lake, it is clean enough for swimming, has a bacteria count about one-fifth that of the nearby Red Cedar River, and meets all state and federal water quality standards.

From the lakes, the water flows to a control building and a pump house. From there it is channeled to a nearby land system, where irrigation sprayers apply the water to fallow fields and to a woodlot of beech and maple trees.

The pump house is the first place in the process where fossil fuel is used. This is one reason the MSU system's cost for the treatment is greatly reduced over conventional methods. A typical advanced waste treatment plan costs \$1.50 per 1,000 gallons to run. Although figures are not yet available for the MSU plant, a similar plant at Muskegon, Michigan costs only twenty-two cents per 1,000 gallons to run.

The MSU system also includes an extensive system of monitoring wells that measure the water quality reaching underground areas. Shallow and deep wells are connected to a computer system for data analysis.

Using a method like the one at MSU researchers believe that a community of 10,000 people could effectively dispose of its processed sewage wastewater by applying it to 260 acres of crop land. The cost of planning and building the system would be comparable to that for traditional sewage treatment. However, after twenty-five years a chemical treatment facility is virtually worthless. A land or lake recycling system, on the other hand, will actually increase in value over the same period of time.

The main problem with this type of system is the land area that it needs, which places an upper limit on the size of the community it can serve. ❑

PROFESSIONAL CONSULTING GEOLOGIST

SUBSURFACE WATER • ENVIRONMENTAL IMPACT

RESOURCE EVALUATION

(503) 389-5461

P. O. BOX 856, BEND, OREGON 97701

April 27th, 1979

Mayor Sam Johnson
City of Redmond
Redmond, OR 97756

RE: Subsurface Sewage Injection

Dear Sam,

As per our recent conversation, we are writing to advise you of our concerns about the proposed injection of sewage effluent from the new Bend Sewage Disposal plant northeast of Bend.

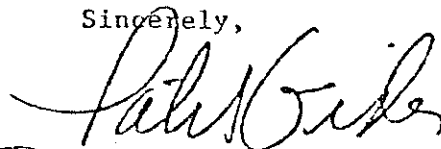
Briefly, the proposed injection locations are some 10 miles due south of Redmond. In 1968, the Federal Water Pollution Control Administration studied the Central Oregon area in a report titled "Liquid Waste Disposal in the Lava Terrane of Central Oregon", Report FR-4, by Jack E. Sceva. This detailed report on subsurface water and threats to it makes a number of findings. Among these is the finding that groundwater migrates essentially due north in the area. Secondly, the groundwater migration velocity averages at least 9,000 feet per year. Thirdly, effluent disposed of in the subsurface migrates downward until it reaches the water table, then laterally with the groundwater.

Based on these findings, effluent from the Bend Disposal wells could be expected to arrive in Redmond area wells in 5.5 years or less.

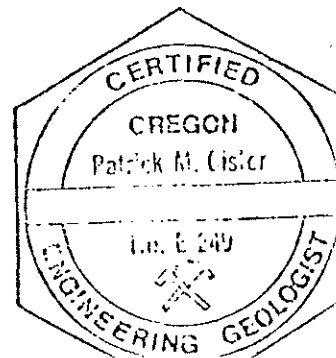
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Clearly, the proposed injection of effluent is a hazard to subsurface water quality in Redmond. Redmond should demand that these earlier studies be updated and either confirm or contradict their findings. Alternatively, another means of effluent disposal should be demanded.

Sincerely,



PG/bb



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE:
SUBJECT: Meeting with City of Bend
June 18, 1979
FROM: Bill Sobolewski, P.E.
TO: The Files

at Seattle

*w.O.
6-21-79*

REC 6/21/79

A meeting was held with the City of Bend on June 18, 1979, at 10:00 a.m. The meeting was requested by the City as a result of a meeting held on June 7, 1979, at which I indicated that EPA will not approve use of the interim drill hole until all feasible alternatives have been studied and evaluated in the EIS. The City requested a meeting with Don Dubois, who could overrule my interpretation of his letter dated March 16, 1978 to Bill Young.

Those in attendance were:

- Don Dubois, RA, EPA
- Ed Coate, DRA, EPA
- Bob Burd, EPA
- Mary Nielson, EPA
- Alex Smith, EPA
- Roger Mochnick, EPA
- Dick Nichols, DEQ
- Ron Moneau, City Attorney of Bend
- Art Johnson, City
- Dick Carlson, City
- Ned Dempsey, BECON
- Norm Sievertson, EPA
- Bill Sobolewski, EPA

The City (Ron Moneau) provided everyone the attached suggested agenda. The EPA funding of an effluent disposal was discussed. Roger Mochnick indicated that EPA would have all the information necessary to make this decision by August 31, 1979. This is the anticipated date that Jones and Stokes will be completed on the collection of information on the EIS.

Because the EIS will not be completed until February, 1980, and the STP will be completed in June, 1980, everyone agreed on the need for an interim disposal (3 months for design and 9 months for construction). It was agreed that the interim disposal will be limited to the following alternatives:

1. NVIC
2. ~~subsurface~~ - drill hole or percolation/evaporation pond.

BECON's role in determining methods of effluent disposal was also discussed. It was agreed that BECON would work closely with Jones and Stokes on the feasibility analysis of the percolation/evaporation plan in order to avoid duplication of effort.

HOW THE BEND SEWER SYSTEM WILL WORK



SEWER FINANCING PLAN FOR THE CITY OF BEND

Published by
The Bend City Commission

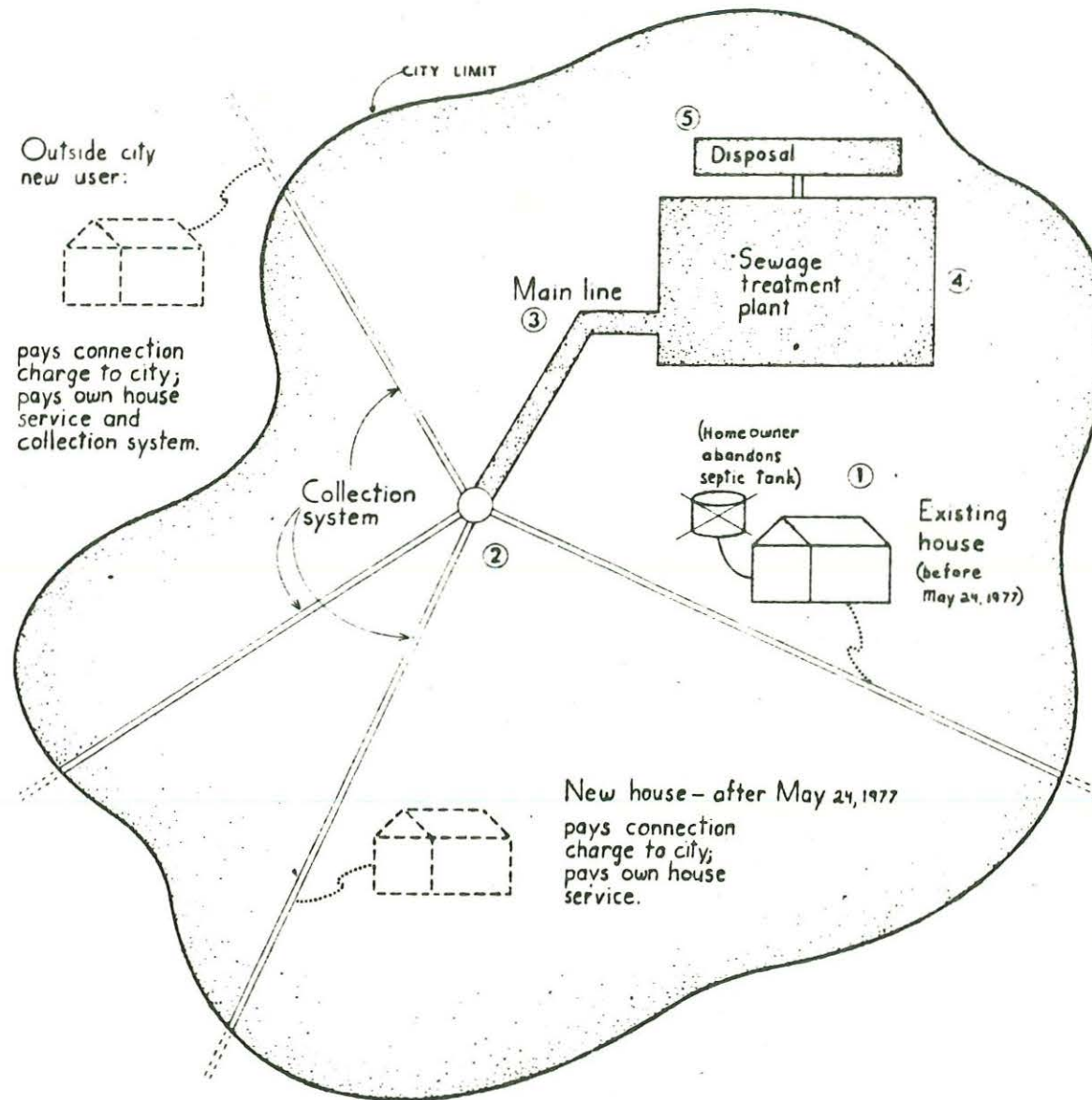
MARCH 1977

PROJECT WILL PROVIDE:

1. House service to existing city houses.
2. Collection system in city.
3. Main line in city.
4. Treatment plant.
5. Effluent disposal.

PROJECT DOES NOT INCLUDE:

- House service to any new house inside city or new user outside city.
- Collection system outside city.



On May 24, voters in Bend will decide whether the city should issue up to \$9.0 million of general obligation bonds to finance a \$44 million city-wide sewer project. The Bend City Commission has published this pamphlet to answer questions about the project, such as: Why do we need a sewer system in Bend? How much will the project cost? Why general obligation bonds? Who pays for what? What are the taxes and charges? What happens if the bonds are not approved?

Why Do We Need a Sewer System in Bend?

As long ago as 1969, the State Department of Environmental Quality (DEQ) recognized that septic tanks, now used by most Bend residents, were discharging sewage wastes into the groundwater and contaminating the water supply. DEQ issued a regulation prohibiting use of septic tanks and disposal wells in Bend after January 1980. The proposed sewer project will solve the problem by providing sewers to connect every household in Bend to the sewage treatment plant. The plant will also be expanded to allow for future growth. In addition, the project will provide for re-use of treated wastewater through irrigation. The federal and state governments have promised to pay about 82 percent of the costs of Bend's sewer project, because the project is needed to protect the environment.

How Much Will the Project Cost?

The project's construction costs will come from three sources: (1) federal grants, (2) state grants, and (3) local funds. Because of federal and state grant assistance, the city needs to provide only 18 percent of total construction costs. Costs of the construction components (house services, collection system, main lines, treatment plant, and disposal) are detailed as follows:

March 1977

CITY OF REDMOND

DESCHUTES COUNTY, OREGON

455 SOUTH SEVENTH STREET
PHONE 548-2148
REDMOND, OREGON 97756

May 15, 1979

Mr. Don DuBois, Regional Administrator
Environmental Protection Administration
1200 6th Avenue
Seattle, WA 98101

Dear Mr. DuBois:

I have been informed by Mr. Gordon Priday of Bend, and others, (see enclosed copy of newspaper article dated May 11) that there is a very reasonable possibility of using the effluent from the Bend sewer system to create a wildlife refuge northeast of the city of Bend. I understand that the effluent is not in a tertiary state and that it may have in it a slight excess of foreign elements. It could be transferred by gravity from one natural pond (or small lake) to another, continuing in a northeasterly direction. This action would continue to purify the effluent on route.

I have further been informed that by using such a series of natural ponds with their cumulative purifying effect, the effluent can support many types of wildlife as it is transmitted towards the Powell Butte farming area. Mr. Priday tells me that he has contacted the local Department of Fish and Wildlife who have shown an interest in the management of this project in return for the benefit to the wildlife in the general area.

The BLM owns most of the land in question. It has its local office in Prineville. It has the necessary engineers, game biologist, and other specialists who can and will work with the local State Department of Fish and Wildlife to plan and develop the project. However, it will be necessary for both of these local offices to receive authorization from a higher level to initiate the necessary cooperation.

In addition I am told that the EPA contractors, Jones & Stokes, who are preparing the necessary environmental impact study, can at small cost, if asked by your office, include this solution for the disposition of the effluent as an additional option.

Mr. Don DuBois
May 15, 1979
Page 2

I am hereby formally and respectfully requesting in the name of the City of Redmond, that this solution for the disposition of the Bend city sewer effluent be given consideration in the impact study. I hope that when your office makes the final decision on the disposition of the effluent, we can with good conscience say that every potential solution to the problem has been given serious and careful consideration.

I have informed Mr. William Sobolewski by telephone of my intentions to write this letter. The City of Redmond plans to be represented at the EPA workshop in Bend on the 24th of May. At that time we will be prepared to go into greater detail concerning this proposed project.

Sincerely,

Samuel S. Johnson

SSJ:jle

Enc.

cc: Mr. William Sobolewski, EPA
Mr. William H. Young, DEQ
Mr. Dick Nichols, DEQ
Mr. Paul W. Arrasmith, BLM
Mr. Leonard Mathisen
Mr. Dick Carlson
Mr. Ed English
Mr. Gordon Priday
Jones & Stokes
Redmond Spokesman
The Bulletin

Let's see when

we go.

Regards

Sam

DIVISION 44

Construction and Use
of Waste Disposal
Wells

[NOTE: Effective July 1, 1969, the Sanitary Authority was replaced by the Department of Environmental Quality, consisting of a Department and of a Commission, known as the Environmental Quality Commission. Where Sanitary Authority is presently used in these regulations, it should be noted by readers of these rules that Department of Environmental Quality should be substituted unless the context or statutes clearly require the use of Environmental Quality Commission.]

Definitions

340-44-005 As used in these regulations unless the context requires otherwise:

(1) "Person" means the state, any individual, public or private corporation, political subdivision, governmental agency, municipality, industry, copartnership, association, firm, trust, estate or any other legal entity whatsoever.

(2) "Sewage" means the water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. The admixture with sewage as above defined of industrial wastes or wastes shall also be considered "sewage" within the meaning of these regulations.

(3) "Wastes" means sewage, industrial wastes, agricultural wastes, and all other liquid, gaseous, solid, radioactive or other substances which will or may cause pollution or tend to cause pollution of any waters of the state.

(4) "Waste Disposal Well" means any natural or man-made hole, crevasse, fissure or opening in the ground which is used or is intended to be used for disposal of sewage, industrial, agricultural or other wastes; provided, however, as used in these regulations waste disposal wells do not include conventional seepage beds, tile fields, cesspools or landfills constructed and operated in accordance with State Board of Health rules and regulations or waste treatment or disposal ponds or lagoons constructed or operated under a permit issued by the State Sanitary Authority.

(5) "Approved Permit Issuing Agency" means a city, county, or other governmental entity which has been specifically designated by the State Sanitary Authority as the agency authorized to issue pursuant to these regulations permits for the construction, modification, maintenance or use of waste disposal wells within a designated geographical area.

Statutory Authority:
Hist: Filed 5-15-69 as SA 41

Policy

340-44-010 Whereas the discharge of untreated or inadequately treated sewage or wastes to waste disposal wells and particularly to waste disposal wells in the lava terrane of Central Oregon constitutes a threat

of serious, detrimental and irreversible pollution of valuable ground water resources and a threat to public health, it is hereby declared to be the policy of the State Sanitary Authority to restrict, regulate or prohibit the further construction and use of waste disposal wells in Oregon and to phase out completely the use of waste disposal wells as a means of disposing of untreated or inadequately treated sewage or wastes as rapidly as possible in an orderly and planned manner.

Statutory Authority:
Hist: Filed 5-15-69 as SA 41

Construction or use of Waste Disposal Wells
Prohibited

340-44-015 (1) After the effective date of these regulations, no person shall construct or place in operation any waste disposal well for the disposal of sewage without first obtaining a permit for said construction or operation of the waste disposal well from an approved permit issuing agency.

(2) After the effective date of these regulations, no person shall construct or place in operation any waste disposal well for the disposal of sewage from a system serving more than 25 families or 100 people or of wastes other than sewage without first obtaining a permit from the State Sanitary Authority.

(3) After January 1, 1975, no person shall maintain or use any waste disposal well for the disposal of sewage or wastes without a currently valid permit from an approved permit issuing agency or the State Sanitary Authority which specifically authorizes said maintenance or use.

It is the intent of this sub-section to phase out, by January 1, 1975, the use of waste disposal wells except for those which are scheduled to be replaced by sewers in accordance with an approved plan and time-schedule, and those which are operated under specific permit from the State Sanitary Authority pursuant to section 340-44-045 of these regulations.

Statutory Authority:
Hist: Filed 5-15-69 as SA 41

Issuance of Permits Without Sanitary Authority
Approval Prohibited

340-44-020 After the effective date of these regulations, no person shall issue permits for the construction, modification, maintenance or use of waste disposal wells unless they are at the time of issuance designated by the State Sanitary Authority as the approved permit issuing agency for the area for which the permit is sought.

Statutory Authority:
Hist: Filed 5-15-69 as SA 41

Waste Disposal Well Permit Areas

340-44-025 Permits for construction, modification, maintenance or use of waste disposal wells may be issued only in those designated geographical areas for which a city, county or district, legally authorized to provide sewerage services for the area, complies with the following conditions:

(1) Maintains on file with the Sanitary Authority a

currently approved sewerage program including a plan and time schedule for providing collection, treatment and disposal of wastes.

(a) The time schedule must be designed to provide an approved sewerage system within the shortest time possible and unless it can be demonstrated to be nonfeasible shall at least comply with the following:

(A) Qualified consulting engineer to be hired by not later than July 1, 1969.

(B) Preliminary engineering report including a detailed financing plan and construction schedule to be submitted to the Sanitary Authority by not later than January 1, 1971.

(C) Start construction of the sewerage system by not later than August 1, 1971, after obtaining approval from the Sanitary Authority of detailed plans and specifications.

(D) Complete construction of the approved sewerage system by not later than January 1, 1980.

(2) Submits to the State Sanitary Authority, during the month of January each year, annual reports which demonstrate that reasonable progress is being made in implementing the approved sewerage program.

Statutory Authority:
Hist: Filed 5-15-69 as SA 41

Waste Disposal Wells Prohibited Where Better Treatment or Protection is Available

340-44-030 Permits shall not be issued for construction, maintenance or use of waste disposal wells where any other treatment or disposal method which affords better protection of public health or water resources is reasonably available or possible.

Statutory Authority:
Hist: Filed 5-15-69 as SA 41

Permit Conditions

340-44-035 Permits for construction or use of waste disposal wells issued by an approved permit issuing agency shall include, in addition to other reasonable provisions, minimum conditions relating to their location, construction or use and a time limit for authorized use of said waste disposal wells, not to exceed a period of five years. Construction and orientation of building sewers shall be compatible with the approved area sewerage plan.

Statutory Authority:
Hist: Filed 5-15-69 as SA 41

Abandonment and Plugging of Waste Disposal Wells

340-44-040 (1) A waste disposal well upon discontinuance of use or abandonment shall immediately be rendered completely inoperable by plugging and sealing the hole to prevent the well from being a channel allowing the vertical movement of water and a possible source of contamination of the ground water supply.

(2) All portions of the well which are surrounded by "solid wall" formation shall be plugged and filled with cement grout or concrete.

(3) The top portion of the well must be effectively sealed with cement grout or concrete to a depth of at least 18 feet below the surface of the ground, or wherever this method of sealing is not practical, effective sealing must be accomplished in a manner approved in writing by the State Sanitary Authority or the authorized permit issuing agency if functioning.

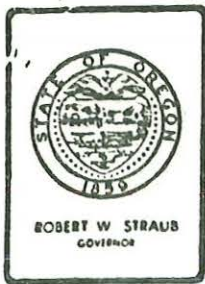
Statutory Authority:
Hist: Filed 5-15-69 as SA 41

Construction or Use of Waste Disposal Wells Prohibited After January 1, 1980

340-44-045 After January 1, 1980, it shall be unlawful for any person to construct, maintain or use waste disposal wells for disposal of sewage or wastes unless said wastes have been previously treated by methods approved by the Sanitary Authority and further such treated wastes shall be discharged to waste disposal wells only if specifically approved and authorized by the Sanitary Authority.

It is intended that this section will permit consideration for approval by the Sanitary Authority of waste disposal to deep injection wells, constructed and operated in accordance with a carefully engineered program, and for disposal to waste disposal wells of adequately treated and disinfected effluents from large, efficiently-operated, municipal or county sewage treatment plants where continuous and effective surveillance and control of waste treatment and discharge can be assured so as to fully safeguard water quality and the public health and welfare.

Statutory Authority:
Hist: Filed 5-15-69 as SA 41



Water Resources Department
MILL CREEK OFFICE PARK
555 13th STREET N.E., SALEM, OREGON 97310

PHONE 378-8455

October 26, 1977

State Clearinghouse
Intergovernmental Relations Division
Room 306, State Library Bldg.
Salem, OR 97310

REC 6/21/79

Dear Sir:

We have reviewed project No. 7709-2-870, the City of Bend's waste water collection, treatment, and disposal facilities supplemental environmental impact assessment draft - dated September 23, 1977. We are concerned that the report does not adequately consider the negative aspects of the proposed option of subsurface disposal through wells. Many of the report's statements concerning ground water are vague, somewhat misleading, and in some instances, incorrect.

As is pointed out in the report there is no site specific information on the geologic or hydrogeologic characteristics of the proposed northeast disposal site. Despite this fact, reference is made to the filtrative and adsorptive qualities of the Deschutes Formation, which underlies the site, and to the ground water flow rates for the various rock units within this heterogeneous formation. To our knowledge, this type of detailed information has not been developed and cannot be developed without conducting extensive geophysical tests including the construction, logging, and monitoring of test wells. If the quality of the area's valuable ground water resources is to be maintained, the gathering of this type of information is absolutely necessary prior to the instigation of any subsurface disposal program.

No reference is made as to the number or size of disposal wells to be utilized, or to the daily volume of treated effluent to be disposed of. If the figure of 6 m.g.d./4167 g.p.m. cited in the spray irrigation section is correct, then we would suggest that any strata capable of receiving that volume of fluid would have porosity and permeability values that limit its suitability as a treatment medium. Such materials would serve only for disposal purposes, not for treatment of the waste water.

Statements such as "Lateral movement of water would occur in a definable zone through absorption and would probably take a saturated cone shape, ultimately.", and "It is conceivable that percolated effluent could be of drinking water quality by the time it has penetrated to a depth of 500

October 26, 1977

feet or more." are vague, somewhat biased, and have not been substantiated by technically sound geologic and hydrogeologic data. Even with the collection of such data, the consequences of subsurface disposal of waste are never completely predictable.

Under no circumstance should increased subsurface discharge be allowed without the development of adequate geologic and hydrogeologic information for the disposal area. Such information should include ground water flow system analysis, determination of lithologic and hydrogeologic characteristics of subsurface materials, location and evaluation of existing down-gradient wells, implementation of a long term monitoring program, and development of contingency plans to handle any unexpected introduction of toxic materials into the disposal well or wells.

Administrative Rule 690-62-025 states that:

"No well shall be used as a disposal pit for sewage, industrial waste, or other materials that could pollute the ground water supply".

See Chapters 536, 537, and 543 of ORS for Statutory Authority.

Members of our staff would be glad to discuss this matter further with representatives of concerned agencies.

Sincerely,



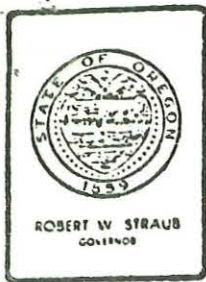
R. KENT MATHIOT
Hydrogeologist

RKM:mjh

cc: Keith M. Palmer

cc: Hearing Officer
City of Bend
P.O. Box 431
Bend, OR 97701

30 10/27/77 10:00 AM



Water Resources Department
MILL CREEK OFFICE PARK
555 13th STREET N.E., SALEM, OREGON 97310

PHONE 378-8455

November 24, 1978

Dick Nichols
DEQ Central Region
2150 NE Studio Road
Bend, Oregon 97701

Dear Mr. Nichols:

As you are aware, the process of reviewing and assessing several proposed methods for the disposal of treated effluent from Bend's planned waste treatment facility has been going on for some time now. It has been more than a year since our agency has had any significant involvement with the project, and therefore, we feel that we should take the opportunity to restate our policy and concerns relative to the injection well disposal option, and to reaffirm our willingness to cooperate with all agencies, groups, or individuals concerned with this project.

OR 690-62-025 states that:

"No well shall be used as a disposal pit for sewage, industrial waste, or other materials that could pollute the ground water supply."

Our department feels that the large volume of treated effluent to be generated at the new treatment plant could pose a threat to the ground water quality downgradient of the disposal site if it is discharged into a disposal well or wells.

Because of this potential we will not support any disposal well program unless adequate information is developed to insure that the proposed program will not significantly degrade the ground water resource at or adjacent to the disposal site. In addition, plans for a ground water monitoring system must be included to insure that the steps taken to protect the resource have been adequate.

Gathering the necessary geologic and hydrogeologic information will require the construction and testing of several wells on or near the disposal site property. At least one test well will be required at the actual site of the proposed disposal well. Information gathered from this test well can be used to determine the adequacy of the subsurface materials to treat and dispose of the effluent and, if necessary, to properly design the disposal well.

Additional wells around the perimeter of the disposal site or on adjacent properties will be necessary to establish the continuity of the subsurface conditions, to establish the ground water gradient, and to collect background water quality data upgradient and downgradient of the disposal site. These perimeter wells can be used for ground water monitoring purposes if the disposal system is actually constructed. All of the test wells will need to extend into the regional water table.

In addition to the construction of test wells at the site, all existing downgradient wells within one mile should be located and as much information as possible on their construction and water quality should be obtained. A contingency plan to handle those instances when the disposal well or wells cannot be operated should also be included as part of any proposed disposal well program.

We would appreciate your keeping the Bend area Watermaster's office informed of any activities related to the Bend sewage disposal project so that we can keep abreast of any new developments. Please feel free to contact the Watermaster or our Salem office if you have any questions on this matter.

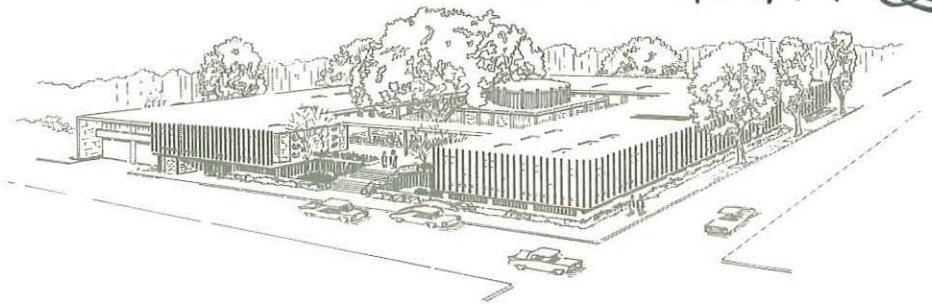
Sincerely,

KENT MATHIOT
Hydrogeologist

KM:ch

cc: Robert Main
Ned Dempsey
Bill Sobilusky
Art Johnson
Brent Lake
Karen Miller
Charles Hazel

Rec'd 6/29/79 CS



DEPARTMENT OF PUBLIC WORKS ————— 858 PEARL STREET ————— EUGENE, OREGON 97401

M E M O R A N D U M

June 28, 1979

TO: Environmental Quality Commission
FROM: Terry Smith, Environmental Analyst, City of Eugene
SUBJECT: EMERGENCY FIELD BURNING RULES

Relative Humidity Restrictions

In our November 16 testimony before the EQC, we made several recommendations for moisture content and rainfall restrictions--see page 4 of our "Technical Comments." The EQC chose to relax the moisture restrictions used in 1978, based on their staff's recommendation. Since that time, we have re-examined the effectiveness of moisture restrictions and am more convinced than ever of their soundness.

Regression analysis of the emissions testing data for head fires yields several methods for predicting particulate emissions from field burning. The prediction method using relative humidity at the time of burn explains slightly more variability in the emissions data than a method using fuel moisture directly. It seems that even after heavy rains have mechanically compacted the fuel bed, relative humidity is as good a predictor of emissions from field burning as straw moisture.

National Weather Service Local Climatological Data (LCD) and DEQ burning records for 1973 through 1977 were examined to determine a reasonable relative humidity restriction on burning and to quantify its possible affect on emissions and burning. There are roughly two burning regimes in the valley--north wind conditions and south wind conditions. Although north winds predominate and are dryer, more acreage is burned on south winds when the relative humidity is higher. Separate analyses were necessary for the two conditions. From the LCD's three-hour average humidity, histograms of the number of burn days with each wind condition versus the three-hour minimum humidity were constructed. With these histograms, a rough assessment of the effect of a chosen humidity restriction on available burn days can be made. A north wind relative humidity restriction of 50 percent and south wind restriction of 60 percent were chosen since these restrictions would reduce available burning days by less than 20 percent, but still effectively reduce emissions. A 45-percent restriction for north wind days might be feasible, but it was not investigated. More severe restrictions are possible, but they will produce major reductions in available burning days.

EMERGENCY FIELD BURNING RULES

June 28, 1979

Page 2

Next, the acreage burned during this five-year period when humidity exceeded the proposed restriction was tallied and the seasonal average relative humidity was determined with and without the restriction. It was found that seven percent of the north valley acreage and 15 percent of the south valley acreage was burned on days when the humidity restriction was exceeded. For 1975-77 when just under 180,000 acres were reportedly burned, only 4.5 percent of the north valley and 10.5 percent of the south valley acreage was burned when the humidity restriction was exceeded. Since available burning opportunities are not fully used when burning is limited to 180,000 acres, it is feasible to shift this acreage to non-restricted days.

The weighted average relative humidity on burn days with no restriction was found to be 50 percent. If the proposed restriction is adopted, the seasonal average drops to 43 percent. Using the emission prediction method and assuming 180,000 acres are burned, the proposed restriction would reduce emissions by 3,400 tons.

As a final test, I examined the effect of relative humidity on the impact of smoke intrusions during the same five-year period. A weak but significant correlation was found between afternoon relative humidity on the burn day and the estimated TSP impact of the resulting intrusion. A ten-percent reduction in humidity will, on the average, result in a 5.5 ug/m³ reduction in impact. The statistics remain unchanged after corrections are made for the amount of burning conducted before the intrusion and for the average horizontal dispersion during the intrusion.

Based on this analysis, we feel that a relative humidity restriction of 45 or 50 percent for north wind days, and 60 percent for south wind days is quite feasible. Use of relative humidity is a reliable, enforceable, and effective technique, it requires no additional labor by the growers, and our proposed restrictions will not reduce the ability to burn 180,000 acres. Our proposed restriction meets the requirements of continuous emissions reduction techniques and reasonably available control technology.

Perimeter Ignition Techniques

We doubt seriously that perimeter ignition techniques qualify as a continuous emission control technique. It is clear that the methods do reduce ground level smoke impact within 20 kilometers of the field. However, there has been no direct measurement of emissions from this fire type. Existing emissions data leads us to suspect perimeter ignition techniques to have emissions as high as

EMERGENCY FIELD BURNING RULES

June 28, 1979

Page 3

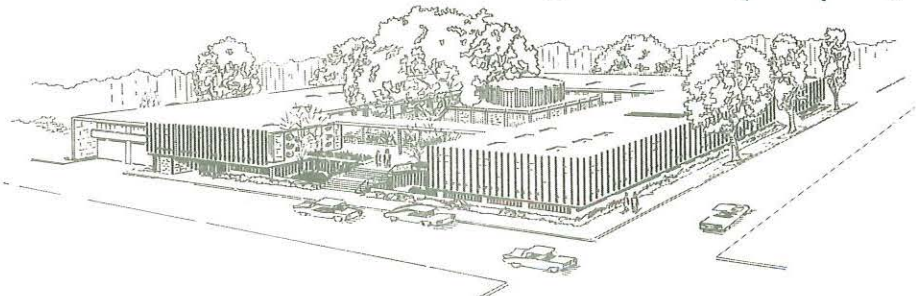
or higher than the regular headfire technique. It seems that perimeter techniques reduce ground level impact by capturing more of the low-energy smoke from the start-up and die-down phases of a fire in the convective column of smoke and carry the low-energy smoke to high elevations. Perimeter techniques would seem to qualify as dispersion methods rather than emission-reduction methods.

The definition of perimeter techniques proposed in the emergency rules is vague enough to include most current headfire ignition practices. In practice, this new rule will result in another relaxation of last year's rules. Since the new rules allow either into-the-wind strip burning or loosely defined perimeter burning to be used on annuals, into-the-wind strip burning will never be used. This vague definition also makes the rule unenforceable.

We recommend that perimeter burning not be considered as an emission reduction technique, that it not be allowed as an alternative for burning annuals, that it be required for use on perennials since it is an improved dispersion technique, and that perimeter burning be more clearly defined.

TS: pm/PW21b22

Rec'd 6/29/79



CIVIL DEPARTMENT _____ 101 EAST BROADWAY, SUITE 401 _____ 503/687-5080
EUGENE, OREGON 97401

June 28, 1979

M E M O R A N D U M

To : Chairman Joe B. Richards
From: The City of Eugene
Re : Temporary Rules Regarding Field Burning to be Considered at the June 29, 1979 EQC Meeting

In May, 1979, the Department of Environmental Quality submitted a State Implementation Plan revision to the Environmental Protection Agency Region X. This revision pertained to changes in the acreage limit for the allowable burn as well as certain operational rule modifications. After a personal communication from Clark Gaulding (EPA Region X Air Programs Branch Administrator) on June 15, 1979, it was determined that further SIP revisions beyond those submitted will be necessary. The proceeding of June 29, 1979, is to adopt temporary emergency rules (pursuant to ORS 183.335(5)) so as to comply with EPA directives.

In summary, the City of Eugene objects to the timing and nature of the proposed action. The proposed moisture control and ignition technique rules do not reflect reasonably available control technologies. Further, the time and manner of notice of this hearing are contrary to federal law. These two objections, if not met, will doom the proffered SIP as a matter of law.

Substantive Objections

The Clean Air Act, 42 U.S.C. § 7401 et seq. (CAA), requires all implementation plans to contain such "measures as may be necessary to insure attainment and maintenance of such primary or secondary standard" CAA § 110(a)(2)(B). As was noted in Kennecott Copper Corp. v. Costle, 572 F.2d 1349 (9th Cir. 1978):

". . . [N]ational ambient air quality standards must be met to the extent feasible by constant emission controls. A state plan which meets these standards by not utilizing

feasible constant emission controls must be rejected under the authority of section 110(a)(2)(B) of the Clean Air Act Amendments of 1970."

Thus, the Clean Air Act requires pollution sources to achieve the highest emission control level that is technologically and economically feasible. Bunker Hill v. EPA, 572 F.2d 1286 (9th Cir. 1977). This emphasis on constant emission controls is underscored by CAA § 123 which outlaws the employment of dispersion techniques to minimize local pollution impact.

In sum, then, the Act requires "emission limitations" for regulated sources. "Emission limitation" is defined at CAA § 302(k) to mean a requirement that

"[L]imits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction."

There are two general emission limitations for field burning: moisture controls and ignition technique restrictions. Both of these limitations reduce the amounts of particulates generated by open burning. These are preferred under the Clean Air Act over dispersion techniques. Dispersion techniques in this case include smoke management and perimeter lighting methods. (See, definition of "dispersion techniques" at CAA § 123(b).)

The proposed rules suffer substantive deficiencies, then, because they relax the previously adopted moisture controls (50% relative humidity restriction lessened to 65%). It does not cure the issue of whether all reasonably available emissions limitations are adopted to say that the 65% limit equates to a 12% moisture content of the straw limit. So what? The point is that a 50% limit is reasonably available and workable and would substantially reduce the amount of emitted particulates over a 65% rule.

Perimeter lighting substantially increases emissions over strip-lighting. It is not an emission limitation but is rather a dispersion technique. To allow such a dispersion technique as a substitute for striplighting (which reduces emissions) is unconscionable, provocative, and contrary to law.

Procedural Objections

It is equally shocking that the State now proposes SIP amendments by an expedited process and without timely and sufficient notice. The last SIP revision on field burning for Oregon was rejected by EPA for procedural irregularities of this type. At that time the State was forwarded a memorandum from Richard DuBey (Office of Regional Counsel, EPA Region X) which detailed the notice requirements of federal law for SIP revisions. That memorandum discussed federal procedural requirements. 40 CFR § 51.4(b) requires that this type of hearing must be "held only after reasonable notice, which shall be considered to include [notice of the hearing] at least 30 days prior to the date of

Chairman Joe B. Richards
June 28, 1979
page 3

such hearing(s)." Moreover, the notice given to the public must be by "prominent advertisement in the region affected announcing the date(s), time(s), and place(s) of such hearing(s)." It may be that 20-day notice will suffice under these regulations (see, DuBey Memorandum, p. 3), but it is clear that greater notice than two to three days is absolutely required.

We understand the timing problems relating to this issue. The legal rights of affected members of the public to effectively comment on these rule changes is, however, paramount and cannot be diluted by speculation of injury to the growers.

Insufficient notice of these rules was given to us. Substantive changes in work commitments by the City Attorneys Office of Eugene would have been necessary to allow representation of our viewpoint at this hearing. The notice was too brief to allow such rescheduling. We therefore request a 20-day postponement of the intended action pursuant to ORS 183.335(4) to allow presentation of oral argument and further data and analysis.

Respectfully submitted,

JOHNSON, HARRANG & MERCER
CITY ATTORNEYS



Timothy J. Sercombe

TJS:jlb



STATE OF OREGON

INTEROFFICE MEMO

ENVIRONMENTAL QUALITY

229-5836

DEPT.

TELEPHONE

TO: Mike Downs

DATE: June 25, 1979

FROM: Doug Brannock

SUBJECT: Agenda Item G(3) EQC Meeting June 29, 1979
Open Burning Rule

Rob Haskins requested that I report to you his comments on the subject agenda item. His comments concerned two areas: First, the relationship of the rule to the SIP may be complicated because it was not given statewide notice. Since it was apparently assumed that the changes would only affect the Willamette Valley, full distribution of the notice was given only in the Willamette Valley. However, the notice included the entire rule in its scope, thus potentially affecting the entire state. The addition of two sections, namely 340-23-30(1), definition of "Agricultural Operation" and 340-23-40(6), a nuisance clause, do have an effect on the whole state so therefore the SIP notice requirements may not have been met.

Secondly the wording in 340-23-45(5) Construction and Demolition Waste got messed up and doesn't say what we wanted it to say.

The latter is being corrected by an amendment to the agenda item, but the former will just have to play out. It is interesting to note that the open burning rule in our current SIP have not been changed since 1972 except for the dissolution of CWAPA and incorporation of CWAPA rule as DEQ rules. In other words, the EPA has not acted on our previous SIP revisions, so apparently the SIP currently contains a prohibition on domestic open burning which was effective January 1, 1975 in Multnomah, Clackamas, Columbia and Washington Counties, and July 1, 1971 in Benton, Linn, Marion, Polk and Yamhill Counties, with Lane County being partly prohibited and the rest permitted.

In other words, EPA does not have a track record showing any great concern in this area.

cc: Rob Haskins
E. J. Weathersbee
H. M. Patterson
Jim Karageorge
Mike Ziolko

for susp.

ORDINANCE NO.

An Ordinance amending Ordinance No. 147082 extending four (4) sustaining positions from July 1, 1979 to September 30, 1979 under CETA Title VI, transferring appropriations within the CETA fund in the amount of \$12,202, transferring appropriations within the General Fund in the amount of \$6,718 and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. Pursuant to Ordinance No. 147082, the City of Portland authorized the extension of In-City PSE positions under CETA Title VI to June 30, 1979.
2. It is necessary to amend Ordinance No. 147082 to extend position termination dates for some positions from June 30, 1979 to September 30, 1979.
3. That sufficient funds are budgeted and available in RU 274 to support this extension.
4. It is therefore appropriate that Ordinance No. 147082 be amended to extend four (4) PSE CETA VI sustaining positions as set forth in the attachment.

NOW, THEREFORE, the Council directs:

- a. That Ordinance No. 147082 be amended to extend the termination date of four (4) PSE CETA VI sustaining positions from June 30, 1979 to September 30, 1979, as set forth in Exhibit "A".

CETA FUND

<u>Requirements</u>	<u>From</u>	<u>To</u>
Unobligated Holding BUC 27400019.260	\$12,202	
Parks and Public Recreation BUC 27400201.130		\$10,728
.170		1,474
Project No. 0124	_____	_____
Total Requirements	<u>\$12,202</u>	<u>\$12,202</u>

ORDINANCE No.

GENERAL FUND

<u>Requirements</u>	<u>From</u>	<u>To</u>
General Fund Special Appropriations BUC 25200128.260	\$6,718	
Parks and Public Recreation .130		\$5,919
.170		799
Project No. 0124		
Total Requirements	<u>\$6,718</u>	<u>\$6,718</u>

Section 2. The Council declares that an emergency exists because delay in the enactment of this Ordinance will result in an interruption of employment of the participants involved; therefore, this Ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council,

Mayor Neil Goldschmidt
6/27/79
Joseph Gonzales:pj

Mayor of the City of Portland

Attest:

Auditor of the City of Portland

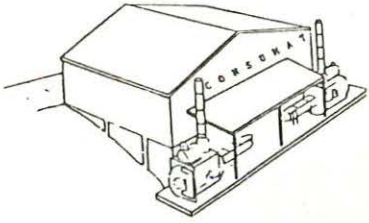
TITLE: VI Sustaining

BUREAU	POSITION	CODE	NO.	HRLY RATE	F/B RATE	START DATE	TERM DATE	# OF MOS	MONTHLY SALARY	CETA WAGES	COSTS FRINGE	GEN FUND WAGES	COST FRINGE
Parks & Public	Gardener	4113	2	8.83	13%	7/1/79	9/30/79	3	1,531	5,364	697	3,822	497
Recreation	Laborer	1210	1	6.79	15%	"	"	"	1,177	2,682	402	849	127
	Utility Worker	1218	1	7.56	14%	"	"	"	1,310	2,682	375	1,248	175

WIDJAC CORPORATION

Automated refuse collection and disposal systems
SOLID WASTE MANAGEMENT AND RESOURCE RECOVERY

10604 N.E. 38th Pl. - Suite 222
Kirkland, Washington 98033
A/C (206) 828-6551



June 19, 1979

TO: Joe B. Richards
Grace S. Phinney
Ronald M. Somers
Jacklyn Hallock
Albert H. Ensmore

FROM: Paul N. Warner
Director, Public Relations

SUBJECT: Gross Misinformation (Solid Waste Incineration)

A bulletin issued by the D.E.Q. in January has just crossed my desk and it concerns me greatly.

The first error states: "The State of California has prohibited installation of such units until studies have been completed".....etc. (See attached bulletin)

I refer you to an attached statement from the California State Solid Waste Management Board made April 6, 1978 that "A Consumat System could be sold in L. A. today."

In paragraph 4, regarding rate of charging and regulation of after burners, Consumat Systems are automatic, requiring a minimum of training and virtually no button pushing, valve turning or gauge watching.

In paragraph 5, it is true that some incinerator ash may require special handling. Our experience handling hazardous waste has created special systems to handle this problem (Widjac Ashvault).

Apparently, the information in your bulletin is the result of someone in your department talking to someone else who heard it from someone else who misunderstood a statement made at a seminar. It seems inconceivable to me that official Oregon, D.E.Q. policy should be dictated without first confirming statements.

I will be happy to furnish any information, hard facts, in writing, that you may require and ask that you please make sure that the information you distribute is accurate.

John Wooley

RECEIVED

JAN 22 1979

BOARD OF COMMISSIONERS

To: All Designated RCRA Planning Agencies
From: Department of Environmental Quality
Subject: Incineration of Solid Waste for Volume Reduction

Local Governments in Oregon have expressed an interest in small modular incinerators for the disposal of solid waste. There are several manufacturers in the market. In order to assist local Government agencies responsible for solid waste management who may consider these units, the Department of Environmental Quality is distributing the following information:

- ① The State of California has prohibited installation of such units until studies have been completed on their application to the total solid waste disposal problem in the state. Operational cost, reliability and ability to meet air quality standards are among the concerns being addressed.
2. The Oregon Environmental Quality Commission has the following policy: "...Incineration of solid waste shall be permitted only where no other method of disposal is feasible..." For the Department to consider incineration proposals, local governments will be required to complete a feasibility study, including consideration of air quality standards for the area in question as part of a solid waste management plan amendment. The plan amendment must be adopted by the governing body and approved by the Department. Permits for incinerators will not be issued until this process is completed.
3. The Department has issued both air and solid waste permits on one unit in Coos County. This unit is currently under study to determine its ability in meeting air quality standards. As information becomes available it will be passed on to interested parties. Detailed operational information is not available, however, the last operational cost estimates are in the \$25/ton range.
- ④ The Department foresees some enforcement problems associated with these units. Even if air standards are met during test burns, they will continue to experience operational problems unless trained operators are employed. Inability to maintain trained operators is a common problem. Rate of charging (feed) and regulation of the after burners are critical to proper functioning. Regulation of air flow during burndown and proper handling of cleanout procedures including drainage from storage areas also presents special problems.
- ⑤ Disposal of incinerator ash may require special handling. At the least an adequate landfill with acceptable soils for containment and cover is necessary. The Environmental Protection Agency has indicated that for ash disposal the minimum standard program should be sanitary landfill. Special Handling techniques may be required at a later date. The landfill is necessary also to receive refuse when the incinerator is down and to dispose of an estimated 15-30% of solid waste which cannot be handled in the incinerator.

② While the Department is not following California in placing a moratorium on incinerator installation, thorough planning and feasibility studies will be required. Local governments are cautioned, and in turn should caution private industry operators in the area, against ordering equipment or entering into contracts until installation of the equipment has been approved by issuance of both air and solid waste permits by the department.

STATE SOLID WASTE MANAGEMENT BOARD

825 K STREET, SUITE 300

P.O. BOX 160908

SACRAMENTO, CALIFORNIA 95816

Minutes of the April 6 Seminar on Small Energy Recovery Systems

-12-

control districts in California and that the small systems are exempt from the new source review rule as the new source review rule apparently will cut off at somewhere around 120 TPD. From the preliminary information we have, the Consumat system could be sold in L. A. today. Further, the EPA is considering exempting resource recover systems from new source review rules.

Mr. Moscone questioned why would any municipality want one of these small systems. Conn answered that it would be a site specific thing that would be viable because of transportation savings, local difficulty with a landfill due to soil and of course there would have to be local market for steam if it was a steam generating system. Ron Schwegler felt that a small system would be economically viable and that it could readily be a partnership between resource recovery and source separation and that this would be the best of all solutions. The manufacturers were very concerned about air pollution requirements. Specifically, would their small systems economically meet these standards. Determining viability for any system will depend on the local transportation costs to a landfill, the landfill costs and the markets for any recovered materials or recovered energy. Some of the implementation problems in California are tremendous; particularly the excessive time required for the required paperwork; public reaction to a reaction to a resource recovery system; and of course the ARB has taken the position that the air cannot be fouled to accomplish solid waste recovery.



STATE OF OREGON

INTEROFFICE MEMO

Regional Operations

229-6232

DEPT.

TELEPHONE

TO: William H. Young and Joe Richards

DATE: 6-15-79

FROM: Van A. Kollias

cc: Robb Haskins

SUBJECT: Robert J. Wright

In the past, Mr. Wright has alleged to the Commission that the Department owes him money. Robb Haskins suggested I forward my recent correspondence with Mr. Wright to you for your information.

VAK:hk

Att.



Department of Environmental Quality

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-

June 15, 1979

Mr. Robert J. Wright
88838 Hale Road
Noti, Oregon 97461

Dear Mr. Wright:

I wrote to Lane County Circuit Records office and requested a copy of the Judgment in Case Number 77-2712, Robert J. Wright (Plaintiff) v. Department of Environmental Quality (Defendant). A copy is enclosed for your reference.

It appears that a Judgment of \$10.00 for the prevailing party fee was entered on April 10, 1978 in favor of the Defendant (DEQ) and against the Plaintiff (you).

ORS 82.010 (1) (b) provides for a 6% per annum rate of interest charge from the date of entry of a Judgment until paid. Therefore, you now owe the Department \$10.71 in all. Please immediately remit your check in that amount to us.

Regarding your appeal of the Circuit Court's decision, I checked with the Court of Appeals Records Administration office. On July 5, 1978 a mandate dismissing your appeal (Court of Appeals Case No. 10894) was entered. No petition for attorney fees was awarded.

If you have a judgment against this Department, please send in a copy when you send in your check for \$10.71.

Sincerely,

Van A. Kollias

Van A. Kollias
Supervisor
Investigation & Compliance

VAK:hk

Enclosure



Contains
Recycled
Material

IN THE CIRCUIT COURT OF THE STATE OF OREGON APR 10 1978
FOR THE COUNTY OF LANE

MICHAEL L. TERRY, Court Administrator
Circuit Court for Lane County Oregon

BY ROSALIE E. MURRAY CLERK
Case No. 77 2712

ROBERT J. WRIGHT,)
)
Plaintiff,)
)
vs.)
)
DEPARTMENT OF ENVIRONMENTAL)
QUALITY,)
)
Defendant.)

STATEMENT OF COSTS AND DISBURSEMENTS
ALLOWED, ORDER AND JUDGMENT

THIS MATTER having come on for hearing on April 7, 1978, on the Defendant's Cost Bill and Defendant's Motion for Attorney Fees, the Plaintiff appearing in person, and the Defendant appearing by Marcus K. Ward and Scott McAlister, Assistant Attorneys General; and after hearing the testimony of witnesses and the arguments of the parties, and the Court not being fully advised in the premises; having taken the matter under advisement, and the Court now being fully advised in the premises; now, therefore, the Court allows the following costs and disbursements:

Prevailing Party Fee	\$10.00
Total	\$10.00

IT IS FURTHER ORDERED, that Defendant's Motion for Attorney Fees is denied, and

IT IS FURTHER ORDERED, that Judgment be, and it hereby is entered in favor of the Defendant and against the Plaintiff for the sum of Ten Dollars (\$10.00), and that execution issue therefore forthwith.

DATED and signed this 10th day of April, 1978.

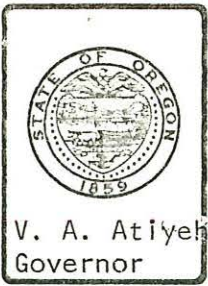
EDWIN E. ALLEN

Edwin E. Allen, Circuit Judge

CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL DOCUMENT CONTAINING OF
1 WHICH IS FILED IN
CASE NO. 77 2712 WHICH I AM THE

REGIONAL CLERK
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED

DATED April 10, 1978
By Rosalie E. Murray Clerk For
the County, Oregon



Department of Environmental Quality

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 2295373

April 26, 1979

Mr. Robert J. Wright
88838 Hale Road
Noti, Oregon 97461

Dear Mr. Wright:

Thank you for your note. The Department will shortly file its judgment against you since it has not been paid.

I searched our records to try to locate a copy of the judgment you claim the Department owes you. I do not find any such judgment.

Please send me a copy of your judgment against us so that we can process it if it is a valid claim.

Sincerely,

Handwritten signature of Van A. Kollias

Van A. Kollias, Supervisor
Investigation & Compliance

VAK:h

cc: Raymond P. Underwood, Dept. of Justice
DEQ Willamette Valley Region
Lane County, Dept. of Env. Mgt.

ROBERT J. WRIGHT Plaintiff-Respondent)
)
vs)
)
DEPT ENV. QUALITY Defendant-Appellant) # 77-2712
(Lane County)

The Department appealed, I caused the Appeals Court to dismiss the appeal and I was awarded costs and prevailing party fees. A study of that case will give you an idea of what my claim is and as for the judgment, nothing could be more valid.

Handwritten signature at the bottom right of the page.



Contains Recycled Material



Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

MAILING ADDRESS: P.O. BOX 1760, PORTLAND, OREGON 97207

April 12, 1979

• Mr. Robert J. Wright
88838 Hale Road
Noti, Oregon 97461

Re: Memorandum of Final Order
DEQ v. Robert J. Wright
No. SS-MVR-77-99

Dear Mr. Wright:

On March 30, 1979, the Environmental Quality Commission upheld its Hearing Officer's proposed Order in the above case. Enclosed is a "Memorandum of Final Order" of the Commission's action.

If your \$75.00 civil penalty remains unpaid for more than ten (10) days, the Final Order becomes a Judgment pursuant to ORS 468.135(4), and we intend to file it with the Lane County Clerk. This will result in a lien being placed on any real property you may own in that County. By this action, you will not be able to clear title of your property in a sale without paying your debt plus interest to this Department. The Department may also use other methods to collect the civil penalty.

Please promptly make payment to the State Treasurer through our office.

Sincerely,

Van A. Kollias

Van A. Kollias, Supervisor
Investigation and Compliance
Section

VAK:vh

cc: Raymond P. Underwood, Department of Justice
Willamette Valley Region Office
Lane County, Department of Environmental Management

This decision will be appealed within the time allowed under the law. My records indicate that the D.E.Q. still owes me for a judgment of costs on mandate from the Court of Appeals from my last action against the D.E.Q. and new legislation grants me 1% a month interest. I just may foreclose a typewriter if they don't pay it.



STATE OF OREGON

INTEROFFICE MEMO

DEQ

DEPT.

229-5395

TELEPHONE

TO: Governor Atiyeh

DATE: June 20, 1979

FROM: Bill Young, Director *BY*
Department of Environmental QualitySUBJECT: Veto Recommendation - Senate Bill 523
Noise Exemption for Agriculture and Forestry

Senate Bill 523, that provides a statutory exemption for agriculture and forestry from any noise rules, should be vetoed by the Governor.

Agricultural activities are presently exempt from the noise standards by administrative rule. They are also provided another statutory exemption within ORS 215.253 that exempts "farm use zones" from noise regulations if they "would unreasonably restrict farm practices." Any additional exemptions are unnecessary and would restrict the DEQ from adopting a reasonable rule if needed.

Forestry is not exempt from present DEQ noise rules. The exemption in SB 523 only exempts this activity on "forest land" thus it will probably not have much impact on this noise source impacting residences. Further, forestry interests have not asked for any rule exemptions.

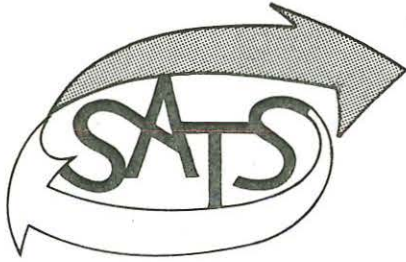
It does not appear there was any need for this bill. Both of these noise sources have not to any great extent been affected by present rules. I don't think, either, that we should be any threat to agriculture or forestry.

The greatest danger of this legislation is the precedent that special interest groups can obtain exemptions from environmental controls. An identical bill was vetoed by Governor Straub in 1975 and then died in the Senate Agriculture Committee in 1977.

So, the bill should be vetoed because:

1. It addresses a non-problem.
2. Administrative remedies are available (exemptions, variances).
3. Existing sources are by rule protected from encroachment of residential development.
4. It is blatant special purpose legislation, which establishes a bad precedent.

cc JM Hector
JLSwenson
EJWeathersbee



SALEM AREA TRANSPORTATION STUDY

400 Senator Bldg., 220 High N.E. Salem, Oregon 97301

(503) 588-6250

COORDINATING COMMITTEE

June 27, 1979

Mr. Joe Richards, Chairman
Environmental Quality Commission
P.O. Box 10747
Eugene, OR 97401

Dear Mr. Richards:

The Salem Area Transportation Study (SATS) Coordinating Committee requests the EQC by means of this letter and attached Resolution to use the federal Environmental Protection Agency (EPA) standard of 0.12 ppm for photochemical oxidants in the State Implementation Plan (SIP) and not the State standard of 0.08 ppm. The reasons for this request are several fold:

1. Relying on the Control Strategies identified in our SIP submittal, Salem will attain the federal standard of 0.12 ppm by 1982.
2. The Environmental Protection Agency has indicated that Salem's oxidant problem is due in large part to its proximity to the Portland/Vancouver Area. Therefore, they would require no further control strategies than Salem committed to in its SIP submittal.
3. To develop control strategies for the 0.08 ppm standard will require considerable additional planning work and implementation without additional funding at yet an undetermined cost with questionable results.
4. If the State Implementation Plan is not submitted to EPA by July 1, 1979, federal funds could be withheld from the Salem Area.
5. The Mid Willamette Valley Council of Governments adopted Resolution 6-79 (attached) endorsing Salem elements of the SIP based upon federal standards for photochemical oxidant.

The Mid Willamette Valley Council of Governments (MWVCOG) is the designated Metropolitan Planning Organization for the Salem Urban Area. The COG was designated Lead Air Quality Planning Agency by Governor Straub in April 1978.

- PARTICIPATING AGENCIES -

City of Salem - Marion County - Polk County - Mid-Willamette Valley Council of Governments - School District No. 24-J
Mid-Willamette Valley Regional Parks Agency - Oregon State Department of Transportation - Federal Highway Administration

Mr. Joe Richards
June 27, 1979
Page 2

The COG has delegated certain responsibilities to the SATS Coordinating Committee, among them development of Plans and Programs. A Memorandum of Understanding exists between Marion County, Polk County, City of Salem and Mid Willamette Valley Council of Governments describing responsibilities for Air Quality Planning and Maintenance.

I have attached copies of relevant resolutions and will be happy to supply further information at your request.

Sincerely,


Robert French, Chairman
SATS Coordinating Committee

KNOWLES/cah
Attachments

RESOLUTION NO. 6-79

OREGON STATE IMPLEMENTATION PLAN
1979 REVISIONS

WHEREAS, the Mid Willamette Valley Council of Governments was designated by the Governor of Oregon as the Lead Agency for coordinating and preparing air quality plans under Section 174 of the Clean Air Act Amendments of 1977; and

WHEREAS, there is a Memorandum of Understanding between Marion County, Polk County, the City of Salem and Mid Willamette Valley COG designating the said Council of Governments as the Lead Agency under Section 174 of the Clean Air Act Amendments of 1977; and

WHEREAS, the Mid Willamette Valley Council of Governments has been designated by the State of Oregon as the official Metropolitan Planning Organization for the Salem Urban Area; and

WHEREAS, the Coordinating Committee of the Salem Area Transportation Study is authorized by Resolution of the Mid Willamette Valley Council of Governments to act on its behalf in all matters relating to transportation planning; and

WHEREAS, the Coordinating Committee of the Salem Area Transportation Study was actively involved in developing the Salem transportation portion of the Oregon State Implementation Plan Revisions of 1977; and

WHEREAS, the Oregon State Implementation Plan will guide the Salem Urban Area to attain National Ambient Air Quality standards by December 31, 1982 without imposing undue economic constraints; and

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MID WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS

THAT the Board of Directors hereby adopts the Oregon State Implementation Plan Sections 4.4, 4.5, 5.4, and 5.5 pertaining to the Salem Urban Area and the 1979 revisions thereto.

APPROVED by the Board of Directors of the Mid Willamette Valley Council of Governments on the 12th day of June, 1979.



Mayor Elvern Hall, Chairman

RESOLUTION 79-04

OREGON STATE IMPLEMENTATION PLAN
1979 REVISIONS

WHEREAS, the Mid Willamette Valley Council of Governments (COG) was designated by the Governor of Oregon as the Lead Agency for coordinating and preparing air quality plans under Section 174 of the Clean Air Act Amendments of 1977; and

WHEREAS, there is a Memorandum of Understanding between Marion County, Polk County, the City of Salem, and Mid Willamette Valley COG designating the said Council of Governments as the Lead Agency under Section 174 of the Clean Air Act Amendments of 1977; and

WHEREAS, the Mid Willamette Valley Council of Governments has been designated by the State of Oregon as the official Metropolitan Planning Organization for the Salem Urban Area; and

WHEREAS, the Coordinating Committee of the Salem Area Transportation Study is authorized by Resolution of the Mid Willamette Valley COG to act on its behalf in all matters relating to transportation planning; and

WHEREAS, the Coordinating Committee of the Salem Area Transportation Study was actively involved in developing the Salem transportation portion of the Oregon State Implementation Plan Revisions of 1977; and

WHEREAS, the Salem photochemical oxidant State Implementation Plan submittal addressed the 0.12 parts per million federal standard and control strategies to attain the federal standard by December 31, 1982; and

WHEREAS, the Board of Directors of the Mid Willamette Valley COG endorsed by Resolution 6-79 the Draft SIP submittal with the control strategies to attain federal photochemical oxidant standards; and

NOW THEREFORE, BE IT RESOLVED BY THE COORDINATING COMMITTEE OF THE SALEM
AREA TRANSPORTATION STUDY:

THAT the Coordinating Committee supports the draft Oregon State Implementa-
Plan Revision Sections 4.4, 4.5, 5.4, and 5.5; and respectfully requests that
the Environmental Quality Commission forward the State Implementation Plan to
EPA using the 0.12 parts per million federal photochemical oxidant standard..

Date

6/27/79



Robert French, Chairman
Salem Area Transportation Study
Coordinating Committee



MEMORANDUM

To: Environmental Quality Commission
From: Bob Adams, Acting Director, Lane Regional Air Pollution Authority
Subject: Agenda Item No. K, June 29, 1979, EQC Meeting

Agenda Item No. K - Ozone Strategy Development Alternatives

Mr. Chairman, members of the commission.

Because the ozone problem does not appear to be as serious in Eugene/Springfield as it is in other Oregon metropolitan areas, the ozone standard change has not been a priority item for discussion by either the Lane Regional Air Pollution Authority Board of Directors or the Citizen's Advisory Committee for the Eugene/Springfield AQMA. I am bringing you today the position of the staff of the Lane Regional Air Pollution Authority.

The LRAPA staff urges the commission to reconsider its position with regard to the federal ozone standard of .12 parts/per/million. We realize that the commission, at a June 8 meeting, rejected a DEQ staff proposal to modify the current state ozone standard of .08 ppm, bringing the state standard in line with the new federal standard. Specifically, the LRAPA staff urges you to reconsider and adopt the DEQ staff recommendation presented to you on June 8.

Let me amplify on the reasons for this LRAPA staff position.

The federal Clean Air Act dictates, and the Environmental Protection Agency (through the Federal Register) reiterates that National Ambient Air Quality Standards are to be based solely on scientific criteria relating to a level that adequately protects public health and welfare. Such considerations as the costs involved or the existence of technology to

attain the standards are not germane to the determination.

One must assume that EPA followed the proper criteria in relaxing the federal ozone standard. After reviewing all of the available scientific evidence and commissioning a panel of health experts to review the data, EPA concluded that the "smog sensitive" individual may experience adverse health effects at levels ranging from .15 to .18 ppm. Further, the EPA concluded that healthy individuals may be affected at levels ranging from .15 to .25 when exercising vigorously. Finally, based on the data review, EPA concluded that there is no well-defined threshold level.

The EPA has found no adverse "welfare" effects below .12 ppm. Thus, EPA concluded that raising the ozone standard to .12 ppm would not only maintain the public health, but public welfare as well.

The EPA is the "expert" on establishing standards for ozone. State or local authorities cannot claim adequate expertise and resources to establish such standards.

To our knowledge, ozone is the only air quality standard ever relaxed by the EPA. And, as you recall, the original ozone standard was established in 1970, based on a study conducted in 1961 in which persons with severe asthmatic conditions experienced adverse health effects at what was then thought to be .10 ppm. As a result, the .08 ppm standard was developed. However, a re-evaluation of the data showed that the level of impact was really .25 ppm.

It is the opinion of the LRAPA staff that, based on the EPA action in relaxing the ozone standard, there does not appear to be justification for implementing some of the strategies that would be necessary for urban areas to meet the .08 standard. Dramatically cutting vehicular traffic and re-routing major interstate corridors in major metropolitan areas, as has been discussed, are very serious and severe measures to take in meeting a standard that even the EPA views as being unnecessarily strict.

The Eugene/Springfield area is viewing the situation in a slightly different manner. We are continuing to study the nature and extent of the local ozone problem, particularly at points downwind of the metropolitan area. However, analysis performed on current data indicates that we are in

"marginal" non-attainment of the .08 standard. In fact, attainment is projected by 1985 with no additional control strategies being implemented. Attainment is projected by 1983 if we institute an automobile inspection/maintenance program in the Eugene/Springfield metropolitan area. For us to continue our efforts toward attainment of a standard that, again, the EPA has said is not necessary, will involve much paperwork, dollar and manhour expenditures...efforts that will detract from our attempts to solve our "most serious problem," that of suspended particulate.

The Lane Regional Air Pollution Authority staff urges the Environmental Quality Commission to bring Oregon into conformance with the remainder of the nation by reconsidering and adopting a single ozone standard of .12 ppm.

ROBERT H. BUCK, M.D.
PHYSICIAN-PATHOLOGIST

THOMAS J. TINSLEY, M.D., P.C.
PHYSICIAN-PATHOLOGIST

FRANK H. WATSON, M.D.
PHYSICIAN-PATHOLOGIST

BUCK, TINSLEY & WATSON MEDICAL LABORATORIES

TELEPHONE 773-6281, EXT. 147
2825 BARNETT ROAD
MEDFORD, OREGON 97501

June 18, 1979

CITY MANAGERS OFFICE
JUN 19 1979
7 8 9 10 11 12 1 2 3 4 5 6
A M P M
A

The Honorable Al Densmore
Mayor of the City of Medford
Medford, Oregon 97501

Dear Mayor Densmore:

Physicians in this valley support your recognition of the complexities of the air pollution problems and hope that standards for hydrocarbons won't be changed until some significant understanding of the hazards merit a change.

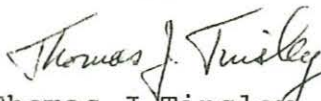
Attempts to quantify varieties of pollutants have not dealt with the countless biological variables involved nor do they fully account for our particularly high vulnerability as the reported second highest area of air stagnation in the country. This fact alone would seem to amplify effects of any levels we have.

Another unevaluated threat involves the active younger persons whose increased respiratory exchange introduces more of these possibly harmful substances into their systems in a much higher dose than in sedentary individuals. "Hydrocarbons" are not a specific substance, but a class of millions of chemicals with toxicity that is equally diverse. Their effects are most apt to become evident after retrospective statistics evaluated years from now.

Our chief concern is not, then, the patients we now see with cardiopulmonary problems aggravated by our air pollution, but is the potential unknown effects on our youngsters.

Thank you very much for your interest in this problem.

Sincerely,



Thomas J. Tinsley, M.D., P.C.
President, Jackson County Medical Society

TJT:dt