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OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS

DEQ

State of Oregon
Department of Environmental Quality

OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

November 16, 1979

Portland City Council Chambers
1220 Southwest Fifth Avenue
Portland, Oregon

A G E N D A

9:00 am 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 October 19, 1979 Commission meeting.

B. Monthly Activity Report for September 1979.

C. Tax Credit Applications

D. Request for authorization to conduct a public hearing to consider amendments to the motor vehicle emission testing rules to provide for housekeeping changes including the clarification of allowable engine changes (OAR 340-24-300 through 350).

E. Request for authorization to conduct a public hearing on proposed amendments to noise control regulations for the sale of new passenger cars and light trucks (OAR 340-35-025).

F. Request for authorization to conduct a public hearing to consider proposed permanent rule revision to agricultural burning rules (OAR 340-26-005 through 26-030) and amendment to the Oregon State Implementation Plan.

9:15 am PUBLIC FORUM

G. 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.

INFORMATIONAL ITEM

H. Progress being made toward identifying the health effects of open field burning.

ACTION ITEMS

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

I. Proposed adoption of noise control regulations for airports (OAR 340-35-045), amended definitions (OAR 340-35-015), and Airport Noise Control Procedures Manual.

(MORE)

J. Proposed adoption of temporary rules as permanent rules - Fees for subsurface permits, licenses, services and variances (OAR 340-72-005 to 72-020 and OAR 340-75-040).

K. Proposed adoption as temporary rules clarifications of the emission limits for veneer dryers in the Medford Air Quality Maintenance Area (OAR 340-30-010 and 340-30-020) and request for authorization to conduct a public hearing for permanent rule making.

10:30 am L. Request for variance from noise regulations (OAR 340-35-035) by Murphy Veneer Company, Myrtle Point.

11:15 am M. Request for variance from rules prohibiting open burning dumps (OAR 340-61-040(2)(c)) for solid waste disposal sites at Brookings and Nesika Beach.

11:30 am N. Request for variance from rules prohibiting open burning dumps (OAR 340-61-040(2)(c)) for solid waste disposal sites at Tillamook, Manzanita and Pacific City.

1:30 pm O. Appeals from subsurface variance denials:

(1) Patrick Johnston, Marion County
~~(2) Paul Steigleder, Clackamas County~~ POSTPONED

P. Proposed adoption of population projection and disaggregations for use in the Federal Sewerage Works Construction Grants Program for Fiscal Year 1980.

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 those items with a designated time certain. 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 am) in the Columbia Room of the Portland Motor Hotel, 1414 Southwest Sixth Avenue, Portland; and lunch in Room 106 of the Portland City Hall.

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

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

November 16, 1979

On Friday, November 16, 1979, the one hundred fifteenth meeting of the Oregon Environmental Quality Commission convened in the Portland City Council Chambers, 1220 Southwest Fifth Avenue, Portland, Oregon.

Present were Commission members: Mr. Joe B. Richards, Chairman; Mr. Fred J. Burgess and Ms. Mary V. Bishop. Commission members Albert Densmore and Ronald Somers were absent. Present on behalf of the Department were its Director, William H. Young, and several members of the Department staff.

The staff reports presented at this meeting which contain 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

1. Bethel/Harborton Status Report - The Commission was informed that Portland General Electric Company (PGE) wanted to operate its Harborton turbine generating facility while the Trojan Nuclear Plant was shut down for repairs. PGE will be requesting a short-term operating permit on the basis of an emergency due to power shortages in the Northwest.

   The Commission was told that PGE was having problems with the 750 hour operating limit in their letter permit for their Bethel Turbine generating facility in Salem. The Director issued PGE a waiver through December 15, 1979, and it was expected that this matter would be before the Commission at their December meeting. A survey conducted by the regional office in Salem indicated that neighbors of the plant were not unhappy with its recent operation.

2. Update on Rogue Valley Mall Indirect Source Permit - The Commission was informed that the indirect source permit for the Rogue Valley Mall in Medford had been drafted and public comment on it had been received. The Director planned to issue the permit the week of November 19.

3. Backyard burning program revisions. The staff will bring analysis of this issue to the Commission in February for their consideration.

4. Revised draft noise rules on airports. The public comment received on proposed revisions to the airport rules were reviewed for the Commission.

FORMAL MEETING

At the beginning of the formal meeting Chairman Richards conducted the swearing in of new Commission member, Mary V. Bishop, and welcomed her to the Commission.

AGENDA ITEM A--MINUTES OF THE OCTOBER 19, 1979 EQC MEETING

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop and carried unanimously that the Minutes of the October 19, 1979, EQC meeting be approved as presented.

AGEMDA ITEM B--MONTHLY ACTIVITY REPORT FOR SEPTEMBER 1979

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop and carried unanimously that the Monthly Activity Report for September 1979 be approved as presented.

AGENDA ITEM C--TAX CREDIT APPLICATIONS

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop and carried unanimously that Pollution Control Facility Tax Credits be granted to the following applicants: T-1105, T-1106, T-1107, T-1108, T-1128 (Willamette Industries, Inc.), T-1118 (Stayton Canning Company), T-1120, T-1121, T-1122, T-1123, T-1124, T-1126, T-1127 (Champion International Corporation) and T-1129 (Martin Marietta Aluminum, Inc.). Also included in the motion was the issuance of an Order denying a request for preliminary Certification for Tax Credit to North Pacific Grain Growers, Inc., for their car pooling operation; which according to an Attorney General's opinion does not qualify for tax relief.

AGENDA ITEM D--REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE MOTOR VEHICLE EMISSION TESTING RULES TO PROVIDE FOR HOUSEKEEPING CHANGES INCLUDING THE CLARIFICATION OF ALLOWABLE ENGINE CHANGES (OAR 340-24-300 THROUGH 350)

AGENDA ITEM E--REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING ON PROPOSED AMENDMENTS TO NOISE CONTROL REGULATIONS FOR THE SALE OF NEW PASSENGER CARS AND LIGHT TRUCKS (OAR 340-35-025)

AGENDA ITEM F--REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING TO CONSIDER PROPOSED PERMANENT RULE REVISION TO AGRICULTURAL BURNING RULES (OAR 340-26-005 THROUGH 26-030) AND AMENDMENT TO THE OREGON STATE IMPLEMENTATION PLAN

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop and carried unanimously that the above public hearings be authorized.

AGENDA ITEM G--PUBLIC FORUM

No one wished to appear on any subject.

AGENDA ITEM H--INFORMATIONAL REPORT ON PROGRESS BEING MADE TOWARD IDENTIFYING THE HEALTH EFFECTS OF OPEN FIELD BURNING

At a special meeting on August 6, 1979, the Commission instructed staff to report on progress being made toward a study of the health effects of open field burning. Staff work to date was preliminary in nature leading to a better assessment of the need for and type of expanded health research. Reports regarding results and planning activities will be presented at a later date.

Commissioner Burgess asked if ultimately the study would be broad enough to include all types of vegetative burning. Mr. Scott Freeburn, Air Quality Division, replied that it eventually would because the health effects of field burning could not be determined without considering other sources and types of emissions.

AGENDA ITEM I--PROPOSED ADOPTION OF NOISE CONTROL REGULATIONS FOR AIRPORTS (OAR 340-35-045), AMENDED DEFINITIONS (OAR 340-35-015), AND AIRPORT NOISE CONTROL PROCEDURES MANUAL

This item was considered at the Commission's October 19, 1979 meeting, at which time staff was directd to evaluate new testimony that had been submitted.

The proposal before the Commission at this meeting incorporated a number of changes resulting from new testimoney and direction of the Commission. The most significant change would shift the responsibility to direct the preparation of a Noise Abatement Program from the Director to the Commission. The Commission would require a Program be developed after "reasonable cause" criteria were demonstrated. Other changes provided additional clarity and specificity to the proposal.

Mr. Gary Gregory, Parkrose Citizens Association, testified in support of the proposed rules, however expressed concerns over the added provisions on land use.

Representative Sandy Richards expressed concern that property owners were being asked to bear the brunt of the cost of noise control under sections vi through x on page 16 of the proposed rules. She also suggested that funding for property owners to soundproof be provided by the airport proprietor.

Ms. Jan Shearer, assistant to Multnomah County Commissioner Gordon Shadburn, said they had observed that present rules were not being enforced and that the present problem needed to be addressed first. She was also concerned that items viii and x on page 16 of the proposed rules would have the effect of devaluating property in certain areas surrounding airports.

Director Young replied that it was important to read that section of the rule in its entirety. He said that all of those provisions could be implemented but nothing in the rule said they would. Mr. Young also said that ultimately the local jurisdiction that has responsibility for the land use plan would decide on which provisions of this section of the rule to implement.

Mr. Paul Burket, Oregon Aeronautics Division, testified that their major concern with the proposed rules were in the areas of noise monitoring and field verification. He submitted suggested wording to change the last line of paragraph (c) on page 15 of the proposed rules. Mr. Burket's written comments are made a part of the Commission's record on this matter.

Mr. R. Stohr, asked the Commission if these proposed rules would control noise from military aircraft such as helicopters. Mr. Stohr was instructed that if he had a specific complaint he could contact the Department's Noise Control Section and that these proposed rules dealt specifically with proposed controls for airport proprietors and not aircraft.

Ms. Annette Farmer testified that she supported the position expressed earlier by Mr. Gregory and Representative Richards.

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop and carried unanimously that the following amendments be made to the proposed rules:

35-045((4) (C)--the last sentence be amended to read "The plan may include but not be limited to the following actions within the specified noise impact zones:"

35-045(7)--the present wording be eliminated and the following inserted:

(7) Airport Noise Monitoring. The Department may request certification of the airport noise impact boundary by actual noise monitoring, where it is deemed necessary to approve the boundary pursuant to 35-045(3) (e).

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop and carried unanimously that the proposed regulations as amended be adopted.

AGENDA ITEM J--PROPOSED ADOPTION OF TEMPORARY RULES AS PERMANENT RULES--FEES FOR SUBSURFACE PERMITS, LICENSES, SERVICES AND VARIANCES (OAR 340-72-005 to 72-020 and OAR 340-75-040)

This item proposed to adopt as permanent rules, temporary rules governing fees to be charged for variances, permits, site evaluations and services in the Subsurface Sewage Disposal Program, as provided for in Chapter 591, Oregon Laws 1979 (HB 2111). These temporary rules will expire November 22, 1979, unless made permanent at this meeting.

Summation

1. OAR 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. Chapter 591, Oregon Laws 1979 (House Bill 2111), contains provisions that require adoption of new rules pertaining to subsurface fee schedules.

3. The Commission adopted temporary rules, effective July 25, 1979, which established new fee schedules. These temporary rules will expire on November 22, 1979, unless made permanent before that date.

4. The Department's budget is predicated on the new fee schedule.

5. A public hearing was conducted on October 16, 1979, without adverse comment.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission adopt as permanent rules the proposed rules, OAR 340-72-005 through 72-020 and 340-75-040.

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

AGENDA ITEM K--PROPOSED ADOPTION AS TEMPORARY RULES CLARIFICATIONS OF THE EMISSION LIMITS FOR VENEER DRYERS IN THE MEDFORD AIR QUALITY MAINTENANCE AREA (OAR 340-30-010 and 340-30-020) AND REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING FOR PERMANENT RULE MAKING

The department's proposal for modification of the regulations for veneer dryers in Medford is a housekeeping measure. There are no proposed changes in emission limits, compliance dates or definitions from those in the original regulation.

The Department inadvertently changed the Medford regulations by making changes to the non-AQMA veneer dryer rules. This proposal would reverse those changes and make the AQMA and non-AQMA rules independent of each other.

Director's Recommendation

Based upon the summation in the staff report, it is recommended that the Commission authorize a public hearing to take testimony on the proposed changes to the rules for veneer dryers in the Medford/Ashland AQMA (OAR 340-30-010 and 30-020. It is recommended that the Commission make a finding that failure to adopt these proposed rules as temporary rules may result in serious prejudice against the operators of veneer dryers in the Medford area and the Department's control program. Based upon these findings, it is recommended that the proposed rules be adopted as temporary rules.

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

AGENDA ITEM L--REQUEST FOR VARIANCE FROM NOISE REGULATIONS (OAR 340-35-035) BY MURPHY VENEER COMPANY, MYRTLE POINT

The Murphy Veneer Company in Myrtle Point requested a variance from the daytime industrial noise pollution standards. This veneer mill was currently operating under a variance for extended daytime noise limits granted by the Commission August 31, 1979. Murphy Company has agreed to a noise control program to bring the mill into compliance with daytime standards by March 1, 1980, with the exception of the two existing diesel log loaders.

Summation

1. The Murphy Company owns and operates a mill in Myrtle Point that exceeds Commission noise standards during the daytime (7:00 a.m. to 10:00 p.m.) and nighttime.

2. Two diesel powered mobile log loaders contribute to daytime and nighttime noise violations.

3. A variance granted on August 31, 1979, exempted portions of the nighttime (6:00 a.m. to 7:00 a.m. and 10:00 p.m. to 12:30 a.m.) from nighttime standards.

4. The log loaders were specifically excluded by the Commission and given no special consideration under the granted variance, thus daytime compliance was required.

5. A local consulting company designs, fabricates and installs noise retrofit modifications for diesel equipment including log loaders. These kits were proposed in the Company's original compliance plan. By September 18, 1979, the Company withdrew this proposal by the local noise reduction firm. Murphy Company

claims the equipment manufacturer does not recommend noise reduction modifications; however, the Department found that this manufacturer consults with local noise reduction firms to assist their modification efforts.

6. Murphy Company does not believe that full compliance will be attained using new equipment from their current manufacturer source.

7. Log loader operations are a major source of noise compliants from this mill.

8. Since the Commission approved the variance from the nighttime noise standards for the Murphy Veneer Company on August 31, 1979, the Department has continued to receive noise complaints. In response to complaints about noise outside the 6:00 a.m. to 12:30 a.m. hours, Department staff visited nearby noise sensitive property at 5:00 a.m., on October 3, 1979, and recorded a noise violation. The primary cause of this violation was mill operation, not diesel log loaders.

9. The Commission is authorized to grant variances from noise regulations under ORS 467.060, and OAR 340-35-100, provided that certain conditions are met. The Murphy Company is applying for a time-limited variance. The basis is that strict compliance is unreasonable, unduly burdensome or impractical.

10. The purpose of the requested variance is to determine if it is feasible to meet the noise standards by modifying the existing equipment or by purchasing new equipment.

11. In the Department's opinion, Murphy Company should be granted a time limited variance to determine whether technology exists to attain strict compliance with the standards.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Murphy Company, Myrtle Point facility, be granted a variance from strict compliance with the noise standards between 6:00 a.m. to 12:30 a.m. the following morning due to operations of two diesel log loaders, until July 1, 1980. A feasiblility study for compliance achievement is required by April 1, 1980. Operation of the loaders shall be limited as specified in the Company's letter of September 25, 1979, between the hours of 8:00 p.m to 12:30 a.m. and 6:00 a.m. to 8:00 a.m.

Ms. Barbara Burton, Southwest Region Office, informed the Commission that a noise survey had been conducted among 15 neighbors of the plant. She said that seven of nine of those neighbors were not disturbed at all and

in general the neighbors were in support of the mill. Ms. Burton said that Murphy Company was making progress toward compliance with the agreed-upon plan.

Representatives of the Murphy Company indicated they were in support of the Director's Recommendation.

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

AGENDA ITEM P--PROPOSED ADOPTION OF POPULATION PROJECTION AND DISAGGREGATIONS FOR USE IN THE FEDERAL SEWERAGE WORKS CONSTRUCTION GRANTS PROGRAM FOR FISCAL YEAR 1980

Mr. Tom Lucas of the Department's Water Quality Division, reviewed the staff report for the Commission and indicated that this was the first time that population projections had been done by DEQ.

Mr. John R. Russell, Mid Willamette Valley Council of Governments, indicated support of the staff recommendation and said they appreciated the work the staff did on this project. Mr. Russell offered the assistance of the COG staff to work with DEQ in the further development of this project.

Summation

1. Federal regulations require that the EQC approve a state population projection and disaggregations to 208 areawide agencies where designated and to counties in the remainder of the state.

2. EQC approval of the projection and disaggregations is necessary for continued eligibility for federal waste water construction grants.

3. DEQ prepared a projection and disaggregations based on earlier work done by the Center for Population Research and Census, and on earlier projections prepared by 208 areawide agencies.

4. The DEQ projection and disaggregations are strongly opposed by one 208 areawide agency and several counties. A number of local governments have proposed higher projections.

5. The Department of Economic Development (DED) has recently prepared a statewide population projection. This projection has not been disaggregated to the county level.

6. Several alternatives were proposed for EQC consideration:

   a. Approve the original Department of Environmental Quality projection and disaggregations (Alternative I).

   b. Approve the Department of Economic Development projection (Alternative 2).

   c. Approve the Department of Environmental Quality Projection and disaggregations adjusted by responses from local governments (Alternative 3).

   d. Approve a base projection consisting of LCDC acknowledged plan figures where they exist and modified CPRC middle-range figures for the remaining counties; approve local government increase requests as variances; authorize the Department to submit to EPA a projection consisting of the base as adjusted by approved variances, and authorize a fall back proposal in the event EPA rejects the initial submittal. (Alternative 4).

7. The Policy Advisory Committee recommended that the EQC approve the DEQ projection and disaggregations on an interim basis and for limited use only.

Director's Recommendation

Based on the Summation, it is recommended that the EQC approve Alternative 4 as follows:

1. Approve a base projection consisting of LCDC acknowledged plan figures where they exist and the CPRC middle-range projection (adjusted for 208 areas) for all other counties (Column 5 of Table A).

2. Approve Column 4 of Table A as variances to the base subject to assurance from counties that such variances are the most appropriate projection based on their ongoing comprehensive planning process.

3. Authorize DEQ to submit to EPA a revised projection (Column 6 of Table A) with adjustments resulting from approval of variances in 2. above (Column 4 of Table A) and using justification provided in the testimony.

4. In the event EPA rejects the submittal, authorize DEQ to then immediately submit the base (Column 5 of Table A), together with individual variances (Column 4 of Table A) and request immediate approval of the base and approval of each county variance.

5. Direct DEQ to approve and submit to EPA for approval future variance requests submitted by counties, provided such requests are properly justified and certified by the county to be the population projections to be used in the county's comprehensive plan.

It is further recommended that EQC approval of population projections for Oregon be conditioned by the following statement:

> The sole purpose of EQC approval of these projections is for determination of the extent of grant eligibility for FY 1980 federal Sewerage Works Construction Grants. An EQC approved projection is not intended in any way to mandate or limit the size or capacity of sewerage facilities to be constructed. Such size and capacity should be based on local comprehensive plans and good engineering judgment as displayed in facility plans. The EQC acknowledges and supports the role of local governments to develop and adopt population projections through the local comprehensive planning process and the responsibility of DEQ and other agencies to utilize such projections once the local comprehensive plan is acknowledged.

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

AGENDA ITEM M--REQUEST FOR VARIANCE FROM RULES PROHIBITING OPEN BURNING DUMPS (OAR 340-61-040(2) (c)) FOR SOLID WASTE DISPOSAL SITES AT BROOKINGS AND NESIKA BEACH

Solid waste disposal sites at Brookings and Nesika Beach in Curry County are scheduled to close as soon as a new incinerator is opened in Brookings. Due to construction delays the incinerator will not be available until at least December 1, 1979. The County is requesting a variance to allow continued open burning of garbage at the two disposal sites during the interim period.

Summation

1. Curry County was issued a variance in July 1979 to continue operating open burning dumps at Brookings and Nesika Beach until a new incinerator was constructd. The variances expired October 1, 1979.

2. Construction of the incinerator was delayed and is not yet completed. The facility is now expected to be operational about December 1, 1979.

3. Strict compliance would result in closure of the two disposal sites and would be unreasonable in the Department's opinion.

4. Under ORS 458.255, a variance can be granted by the Commission.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that a variance be granted to Curry County to allow continued operation of open burning dumps at Brookings and Nesika Beach until an alternative is available, but not later than December 31, 1979.

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

AGENDA ITEM N--REQUEST FOR VARIANCE FROM RULES PROHIBITING OPEN BURNING DUMPS (OAR 340-61-040(2) (c)) FOR SOLID WASTE DISPOSAL SITES AT TILLAMOOK, MANZANITA AND PACIFIC CITY

Tillamook County has requested an extension of variances to continue open burning at the Manzanita, Tillamook and Pacific City disposal sites. The regional landfill site has been selected and construction was to have been completed this year. However, because of time lost resecuring timber rights and delay due to litigation, construction of the regional landfill did not proceed. The County expects to start construction in the Spring of 1980.

Summation

1. Because of time lost resecuring timber rights to the regional landfill site and delay due to litigation, previously adopted schedules to phase out existing open burning disposal sites have not been met.

2. Winter and spring weather conditions in Tillamook County limit construction to complete the landfill conversion as approved.

3. It is the opinion of the staff that approval of the variance requested is necessary to facilitate transition to an acceptable solid waste disposal program.

4. Strict compliance with the rules would result in closing of the existing facilities with no alternative facility or method yet avaialble.

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) for the Manzanita, Pacific City and Tillamook disposal sites until October 1, 1980, subject to the following condition:

Open burning at the disposal sites is to be discontinued prior to the expiration date of the variance if a practical alternative method of disposal becomes available.

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

AGENDA ITEM O (1)--APPEAL FROM SUBSURFACE VARIANCE DENIAL: PATRICK JOHNSTON, MARION COUNTY

This matter concerned the appeal of a variance officer's decision to deny a specific variance from the Oregon Administrative Rules pertaining to subsurface sewage disposal systems.

Summation

1. The pertinent legal authorities were summarized in the staff report.

2. Mr. Lawrence Jensen submitted an application for a statement of feasibility for proposed subsurface sewage disposal to Marion County.

3. Mr. Robert Foster evaluated the property to determine if a standard subsurface sewage disposal system could be installed. Temporarily perched water levels were observed at or above the ground surface in the low areas of the property, and at seven to nine inches below the ground surface on higher ground. The property was denied for subsurface sewage disposal because a temporarily perched water table was expected (and observed) to rise closer than twenty-four inches from the ground surface, and because of a suspected restrictive soil horizon being closer than thirty inches from the ground surface.

4. Mr. Patrick Johnston submitted a variance application to the Department which was assigned to Mr. Gary Messer on May 24, 1979.

5. On June 6, 1979, Mr. Messer examined the proposed drainfield site and determined the property to be nearly level. He found the soils to be distinctly mottled beginning at depths ranging from fourteen to twenty inches from the ground surface.

6. On June 21, 1979, Mr. Messer conducted a public information type hearing so as to allow Mr. Johnston and others the opportunity to supply the facts and reasons to support the variance request.

7. Mr. Messer reviewed the variance record and found that the testimony provided did not support a favorable decision. He was unable to modify the variance proposal to overcome the site limitations.

8. Mr. Messer notified Mr. Johnston by letter dated July 5, 1979, that his variance request was denied.

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 B, November 16, 1979, EQC Meeting

September Program Activity Report and October Hearings Report

Discussion

Attached is the September Program Activity Report and the October Hearings 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/EQC 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.

Bill

WILLIAM H. YOUNG

M.Downs:ahe
229-6485
10-30-79

DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Report

September, 1979
Month

TABLE OF CONTENTS

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality, Water Quality, & Solid Waste Divisions (Reporting Unit) — September, 1979 (Month and Year)

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans Pending
	Month	Fis.Yr.	Month	Fis.Yr.	Month	Fis.Yr.	
Air							
Direct Sources	22	50	16	46	0	0	61
Water							
Municipal	74	354	91	298	0	0	81
Industrial	9	36	12	40	0	0	18
Solid Waste							
General Refuse	3	5	0	4	0	2	6
Demolition	0	0	0	0	0	0	1
Industrial	0	1	1	1	0	0	1
Sludge	0	1	0	0	0	0	1
Hazardous Wastes	0	0	0	0	0	0	0
GRAND TOTAL	108	447	120	389	0	2	169

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

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

PLAN ACTIONS COMPLETED - 16

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Direct Stationary Sources			
Clackamas (NC 1309)	Oregon Portland Cement Co. Baghouse under #4 clinker silo	9/04/79	Approved
Douglas (NC 1361)	Roseburg Lumber Co. Sander and baghouse	9/07/79	Approved
Clackamas (NC 1376)	Oregon Portland Cement Co. Re-locating baghouse filter	08/31/79	Approved
Benton (NC 1438)	Hobin Lumber Co. New sawmill	8/30/79	Approved
Multnomah (NC 1440)	Precision Castparts Walk-in sandblast room	8/29/79	Approved
Josephine (NC 1445)	Diamond Industries New paint line	8/22/79	Approved
Benton (NC 1447)	Evans Products Wall around chip pile	8/23/79	Approved
Multnomah (NC 1448)	Precision Castparts Corp. Improved grabber area dust system	8/29/79	Approved
Multnomah (NC 1455)	Precision Castparts Corp. Baghouse in shell removal area	8/29/79	Approved
Yamhill (NC 1457)	Publishers Paper Co. New SO_2 absorption recovery furnace	9/14/79	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

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

PLAN ACTIONS COMPLETED - 16, cont'd

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Direct Stationary Sources (Cont.)			
Linn (NC 1460)	Willamatte Industries Baghouse on sanders and rip saw	8/27/79	Approved
Jackson (NC 1466)	Kogap Mfg. Co. Ionized scrubber on veneer dryer	8/17/79	Approved
Polk (NC 1469)	Liberty Seed & Grain Cyclone	8/23/79	Approved
Jackson (NC 1471)	Griffin Farms Two orchard fans	8/31/79	Approved
Multnomah (NC 1475)	ACE Galvanizing, Inc. Reconstruct Galvanizing plant	8/31/79	Approved
Hood River (NC 1481)	Ken Tamura One orchard fan	8/29/79	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit) — September 1979 (Month and Year)

PLAN ACTIONS COMPLETED

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
INDUSTRIAL WASTE SOURCES (12)			
Tillamook	Lynn and Terry Davis - Tillamook, Animal Waste	9/3/79	Approved
Tillamook	Gary Oldenkamp - Tillamook, Animal Waste Holding Tank	9/3/79	Approved
Clatsop	Virgil L. Cathcart - Astoria, Animal Waste Holding Tank	9/3/79	Approved
Linn	Herrling Century Farm - Shedd, Manure Tank	9/6/79	Approved
Lincoln	Georgia Pacific--Toledo, Tie into Toledo System	9/13/79	Approved
Coos	Menasha - North Bend, Microcell Spent Liquor System	9/18/79	Approved
Multnomah	Ross Island Sand & Gravel Moving Rivergate Premix Plant	9/19/79	Approved
Klamath	Shell Oil Terminal, Lakeview--Storm runoff Oil Separator	9/24/79	Approved
Douglas	International Paper - Gardiner, Power House Black Liquor Collection Sump	9/24/79	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division	September 1979
(Reporting Unit)	(Month and Year)

PLAN ACTIONS COMPLETED

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Douglas	International Paper - Gardiner, Pulp Mill Reject Tank	9/24/79	Approved
Douglas	Looking Glass Dairy - Looking Glass, Manure Holding Lagoons	9/25/79	Approved
Lane	Lane Plywood - Eugene, Treatment of Contaminated Storm Runoff	9/29/79	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY WATER QUALITY DIV.ACTIVITY REPORT

10/04/79 PLAN ACTIONS COMPLETED: 103 MUNICIPAL SOURCES 91 FOR SEPTEMBER 1979

ENGR COUNTY	LOCATION PROJECT	REVIEWER	DATE RECVD	DATE OF ACTION	ACTION	DAYS TO COMPLETE
BCVSA	GIBBON RD	K	8/21/79	9/20/79	PROV APP	30
COQUILLE	HILLSIDE TER	K	8/20/79	9/20/79	PROV APP	31
BCVSA	T-M SUBD II	K	8/24/79	9/20/79	PROV APP	27
NTCSA	KRETSINGER REV	K	8/30/79	9/20/79	PROV APP	21
ALBANY	E COMMERCIAL WY	K	8/28/79	9/21/79	PROV APP	24
LKE OSWEGO	DOLPH PLACE	K	8/22/79	9/20/79	PROV APP	29
F GRVE	E-23RD ST	K	8/17/79	4/20/79	PROV APP	34
BEND	CONTRACT 14	V	6/15/79	9/12/79	PROV APP	90
USA	NYBERG INTERCEPTOR	V	8/22/79	9/14/79	PROV APP	23
TAMARA QUAYS	FINAL PLANS	V	8/23/79	9/07/79	PROV APP	15
TILLAMOOK	PRESSURE SEWER SYS-ANNEX	V	8/27/79	9/21/79	PROV APP	25
ES-MWMC	CONTRACT C-5	V	6/06/79	9/17/79	PROV APP	97
ES-MWMC	CONTRACT C-7	V	6/06/79	9/17/79	PROV APP	97
ILLAHEE PUD	DOUG CO - SEPTIC SYSTEM	V	7/25/79	8/28/79	COMMENTS/R.O	34
BRANDY BAR	LANDING STP - DOUGLAS CO	V	7/30/79	8/21/79	CMMTS ENGR	21
SALEM	ROGGY SUBD	K	8/22/79	9/18/79	PROV APP	27
STAYTON	IND PARK NO 2	K	8/30/79	9/20/79	PROV APP	21
EUG	SOMERSET HLS VIII	K	8/21/79	9/19/79	PROV APP	29
EUG	VERNON WAY	K	8/09/79	9/01/79	PROV APP	29
EUG	DEERTRAIL PROJ	K	8/10/79	9/07/79	PROV APP	28
EUG	N GRAND ST	K	8/09/79	9/07/79	PROF APP	29
EUG	JEFFERSON ST	K	8/09/79	9/07/79	PROV APP	29
EUG	E 43RD-SHASTA	K	8/10/79	9/07/79	PROV APP	28
EUG	TREEHOUSE PUD	K	8/10/79	9/07/79	PROV APP	28
EUG	INGALLS WAY	K	8/10/79	9/11/79	PROV APP	32
EUG	LAUREL HILL	K	8/10/79	9/07/79	PROV APP	28
EUG	TYINN SUBD	K	8/24/79	9/20/79	PROV APP	27
BAKER	FAILING AVE	K	8/24/79	9/20/79	PROV APP	27
BAKER	'H'ST - CEDAR	K	8/24/79	9/20/79	PROV APP	27
USA	TUAL URBAN RNW	K	8/27/79	9/18/79	PROV APP	22
REDWD SSD	BELL PH 1	K	8/13/79	9/24/79	PROV APP	42
NTCSA	MERRICK PROJ	K	8/15/79	9/12/79	PROV APP	28
HILLSB	TERRY GLEN	K	8/15/79	9/11/79	PROV APP	27
MCMINNVLE	TALL OAKS 2	K	8/22/79	9/11/79	PROV APP	20
SAL	SAL IND PARK	K	8/15/79	9/06/79	PROV APP	22
GRESHAM	CRIMSON PK	K	8/13/79	9/07/79	PROV APP	25
HOODLND CSD	FERNDALE SUBD	K	8/23/79	9/19/79	PROV APP	27
USA	TELSHIRE	K	8/09/79	9/12/79	PROV APP	34
USA	GLENBROOK	K	8/09/79	9/12/79	PROV APP	34
REDMOND	SCHRIM PROJ	K	8/08/79	9/20/79	PROV APP	43
SPFD	DOLAN ALEX PROJ	K	8/13/79	9/11/79	PROV APP	29
CCSD NO 1	MILLFOX ADD	K	8/15/79	9/12/79	PROV APP	28
MCMINNVLE	WALL ST ADD	K	8/15/79	9/14/79	PROV APP	30
ONTARIO	SE SIXTH AVE	K	8/14/79	9/12/79	PROV APP	29
SPFD	LUCERNE MDOWS	K	8/15/79	9/11/79	PROV APP	27
GRESHAM	SE 262ND AVE	K	8/15/79	9/12/79	PROV APP	28
RSBG	FULTON-MALHEUR	K	8/15/79	9/11/79	PROV APP	27

DEPARTMENT OF ENVIRONMENTAL QUALITY WATER QUALITY DIV.ACTIVITY REPORT

10/04/79 PLAN ACTIONS COMPLETED: 103 MUNICIPAL SOURCES (CONT) FOR SEPTEMBER 1979

ENGR LOCATION COUNTY	PROJECT	REVIEWER	DATE RECVD	DATE OF ACTION	ACTION	DAYS TO COMPLETE
SANDY	TERRI ADD REV	K	8/09/79	9/12/79	PROV APP	34
LKE OSWEGO	KINGS PARK CONDO	K	8/14/79	9/12/79	PROV APP	29
SPFD	ROSEBUD SUBD	K	8/20/79	9/12/79	PROV APP	23
SAL	KOSTENBORDER REV	K	8/20/79	9/17/79	PROV APP	28
MILW	FOXFIRE SUBD	K	8/20/79	9/19/79	PROV APP	30
LINC CTY	DUNES AVE	K	8/17/79	9/14/79	PROV APP	28
USA	ZOE PARK	K	8/17/79	9/12/79	PROV APP	26
LKE VW SSD	LKEVIEW SWR EXT	K	8/15/79	9/14/79	PROV APP	30
SAL	RELINE PROJ	K	8/29/79	9/20/79	PROV APP	22
LKE OSWEGO	PALISADES TER	K	8/30/79	9/20/79	PROV APP	21
USA	TWELVE OAKS	K	8/29/79	9/12/79	PROV APP	14
USA	TERRY GLEN	K	8/29/79	9/12/79	PROV APP	14
SPFD	SPRING OAKS	K	8/31/79	9/11/79	PROV APP	11
USA	SIPE SWR EXT	K	8/30/79	9/12/79	PROV APP	13
USA	WHITE FOX PK	K	8/29/79	9/12/79	PROV APP	14
HUBBARD	ZEPHYR EST	K	8/30/79	9/21/79	PROV APP	22
USA	MURRAY PK CONDO	K	8/22/79	9/11/79	PROV APP	26
HILLSB	WOODLAND PK	K	8/23/79	9/21/79	PROV APP	29
USA	APRIL III	K	8/23/79	9/17/79	PROV APP	25
USA	ENGLISH EXT	K	8/28/79	9/17/79	PROV APP	20
HERMISTON	RIVER HILL	K	8/13/79	9/19/79	PROV APP	37
USA	WOODLAND	K	8/27/79	9/17/79	PROV APP	21
USA	BANGY LID	K	8/27/79	9/19/79	PROV APP	23
MILT-FREE	SEAQUIST	K	8/22/79	9/17/79	PROV APP	26
ROSBURG	HARRISON ST	K	8/27/79	9/21/79	PROV APP	25
MILWAUKIE	INTERNATIONAL WAY-EDISON ST	K	9/15/79	9/27/79	PROV APP	43
GLIDE	UNIT D PRESSURE SEWERS	V	9/07/79	9/14/79	PROV APP	07
EUG	SENECA RD	K	9/04/79	9/27/79	PROV APP	23
EUG	CHERYL ST	K	9/04/79	9/27/79	PROV APP	23
EUG	JEPPESEN ACRES	K	9/04/79	9/27/79	PROV APP	23
EUG	ARCADIA PROJ	K	9/04/79	9/27/79	PROV APP	23
EUG	13TH-17TH REHAB	K	9/04/79	9/27/79	PROV APP	23
CORVALLIS	TIMBERHILL MED VIL	K	8/30/79	9/27/79	PROV APP	28
CCSD NO 1	MISTY FIRS SUB	K	8/15/79	9/21/79	PROV APP	37
MCMINNVLE	JANDINA SUBDIV	K	9/10/79	9/28/79	PROV APP	18
MOLALLA	INDIAN OAK 1	K	9/12/79	9/28/79	PROV APP	16
F GRVE	F.GRVE-CORNELIUS SWR	K	9/10/79	9/28/79	PROV APP	18
CCSD NO 1	BACHMAN EST	K	9/12/79	9/26/79	PROV APP	14
SHERWOOD	WHITMORE EST	K	9/13/79	9/26/79	PROV APP	13
HILLSBORO	LEMON GRASS SUB	K	9/12/79	9/26/79	PROV APP	14
OAK LDGE SD	MANOR OAK EST	K	9/11/79	9/28/79	PROV APP	17
N BEND	NEUMARK ST	K	9/06/79	9/25/79	PROV APP	19
SPFD	MARCOLA RD	K	9/10/79	9/25/79	PROV APP	15
BROOKINGS	SPRUCE KNOLL	K	9/10/79	9/25/79	PROV APP	15

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division (Reporting Unit) — September 1979 (Month and Year)

PLAN ACTIONS COMPLETED (1)

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Tillamook	Tillamook General Hospital new woodwaste landfill construction and operational plans	9-20-79	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

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

SUMMARY OF AIR PERMIT ACTIONS

	Permit Actions Received Month	Permit Actions Received FY	Permit Actions Completed Month	Permit Actions Completed FY	Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
Direct Sources							
New	8	12	2	13	24		
Existing	1	3	5	11	9		
Renewals	0	5	15	37	57		
Modifications	1	4	4	18	13		
Total	10	24	26	79	103	1926	1959
Indirect Sources							
New	2	7	1	17	9		
Existing	-	-	-	-	-		
Renewals	-	-	-	-	-		
Modifications	-	1	-	-	1		
Total	2	8	1	17	10	139	

Number of Pending Permits	Comments
21	To be drafted by Northwest Region
5	To be drafted by Willamette Valley Region
6	To be drafted by Southwest Region
0	To be drafted by Central Region
6	To be drafted by Eastern Region
1	To be drafted by Program Planning Division
6	To be drafted by Program Operations
9	Awaiting Next Public Notice
49	Awaiting the end of 30-day Noted Period
103	

32 Technical Assistances
3 A-95's

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Qaulity Division (Reporting Unit) — September, 1979 (Month and Year)

PERMIT ACTIONS COMPLETED

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Indirect Source			
Clackamas	Clackamas Highway E. Portland Freeway to Boring Road File No. 03-7927	9/24/79	Final Permit Issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

AQC - PERMITS ISSUED

DIRECT STATIONARY SOURCES

COUNTY	SOURCE		PERMIT NUMBER	APPLIC. RECEIVED	STATUS	DATE ACHIEVED	TYPE OF APPLICATION
BENTON	GREEN & WHITE ROCK PROD.	02	2178	05/09/79	PERMIT ISSUED	09/20/79	EXT
BENTON	MID VALLEY GRAVEL CO	02	7032	05/10/79	PERMIT ISSUED	09/20/79	EXT
CLATSOP	ASTORIA PLYWOOD CORP	04	0014	05/25/79	PERMIT ISSUED	09/20/79	MOD
CROOK	OCHOCO FEED & FARM SUPPLY	07	0012	04/24/79	PERMIT ISSUED	09/20/79	RNW
DOUGLAS	ROSEBURG LUMBER CO.	10	0063	00/00/00	PERMIT ISSUED	09/20/79	RNW
HOOD RIVER	CHAMPION BUILDING PRODUCT	14	0002	03/22/79	PERMIT ISSUED	09/20/79	RNW
HOOD RIVER	MT. HOOD MEADOWS, OR LTD.	14	0024	03/16/79	PERMIT ISSUED	09/20/79	EXT
JOSEPHINE	SOUTHERN OREGON PLYWOOD	17	0015	04/10/78	PERMIT ISSUED	09/05/79	MOD
LINCOLN	NORTHWEST NATURAL GAS CO	21	0042	05/09/79	PERMIT ISSUED	09/20/79	RNW
MULTNOMAH	OREGON HUMANE SOCIETY	26	2052	05/09/79	PERMIT ISSUED	09/20/79	RNW
MULTNOMAH	MCCALL MARINE TERMINAL	26	2596	03/15/79	PERMIT ISSUED	09/20/79	RNW
UMATILLA	L. W. VAIL CO., INC.	30	0003	00/00/00	PERMIT ISSUED	09/20/79	MOD
UMATILLA	PENDLETON GRAIN GROWERS	30	0063	05/09/79	PERMIT ISSUED	09/20/79	RNW
UMATILLA	J R SIMPLOT CO	30	0078	04/13/79	PERMIT ISSUED	09/20/79	MOD
UNION	TRU-STUD INC	31	0034	10/31/78	PERMIT ISSUED	09/20/79	NEW
WASHINGTON	STIMSON LUMBER COMPANY	34	2066	05/09/79	PERMIT ISSUED	09/20/79	RNW
PORT.SOURCE	OCEANLAKE SAND & GRAVEL	37	0005	05/09/79	PERMIT ISSUED	09/20/79	RNW
PORT.SOURCE	PLUMLEY ROCK CRUSHING	37	0008	05/25/79	PERMIT ISSUED	09/20/79	RNW
PORT.SOURCE	TRI CITY REDY MIX	37	0011	05/25/79	PERMIT ISSUED	09/20/79	RNW
PORT.SOURCE	PETER KIEWIT SONS CO	37	0015	05/25/79	PERMIT ISSUED	09/20/79	RNW
PORT.SOURCE	J ARLIE BRYANT INC.	37	0045	05/25/79	PERMIT ISSUED	09/20/79	RNW
PORT.SOURCE	KEMHAUL INC.	37	0057	05/25/79	PERMIT ISSUED	09/20/79	RNW
PORT.SOURCE	ALLIED PAVING	37	0096	06/08/79	PERMIT ISSUED	09/20/79	NEW
PORT.SOURCE	BEAVER STATE SAND & GRAVL	37	0129	05/09/79	PERMIT ISSUED	09/20/79	RNW
PORT.SOURCE	NORTH SANTIAM PLYWOOD	37	0224	05/25/79	PERMIT ISSUED	09/20/79	EXT
PORT.SOURCE	DON OBRIST, INC.	37	0232	04/12/79	PERMIT ISSUED	09/20/79	EXT

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit) — September 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.			
	* /**	* /**	* /**	* /**	* /**	* /**	* /**
Municpal							
New	0/0	0/2	0/1	0/1	1/8		
Existing	0/0	0/2	0/0	0/0	6/3		
Renewals	0/0	3/0	2/0	15/0	30/2		
Modifications	0/0	1/0	0/0	0/0	4/0		
Total	0/0	4/4	2/1	15/1	41/13	245/86	252/97
Industrial							
New	0/1	2/9	0/0	2/0	7/10		
Existing	0/1	0/1	0/0	0/0	3/2		
Renewals	0/1***	2/1	***3/0	22/0	36/3		
Modifications	0/0	0/0	0/0	0/0	3/0		
Total	0/3	4/11	3/0	24/0	49/15	412/133	422/145
Agricultural (Hatcheries, Dairies, etc.)							
New	0/0	1/3	0/0	1/0	2/4		
Existing	0/1	0/2	0/1	0/1	0/1		
Renewals	0/0	0/0	0/1	0/1	0/0		
Modifications	0/0	0/0	0/0	0/0	0/0		
Total	0/1	1/5	0/2	1/2	2/5	64/23	66/28
GRAND TOTALS	0/4	9/20	5/3	40/3	92/33	721/242	740/270

* NPDES Permits
** State Permits
*** Includes one NPDES Permit transferred to State Permit

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality (Reporting Unit) — September 1979 (Month and Year)

PERMIT ACTIONS COMPLETED

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Lincoln	Tamara Quays, S.D. (Pixieland) Sewage Disposal	9/7/79	NPDES Permit Renewed
Lane	L. A. Borba Dairy Cattle Animal Waste	9/13/79	State Permit Renewed
Benton	City of Philomath Sewage Disposal	9/24/79	NPDES Permit Renewed
Umatilla	Oregon Dept. Transportation Deadman's Pass Rest Area	9/24/79	State Permit Issued
Umatilla	Athena Cattle Feeders (Key) Animal Wate	9/24/79	State Permit Issued
Columbia	Multnomah Plywood Wood Products	9/17/79	Transferred to State Application
Klamath	PP & L Westside	9/79	Permit Cancelled
Washington	Oregon Primate Center Research Center	9/79	Renewal Dropped

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division (Reporting Unit) — September 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	FY	Month	FY			
General Refuse							
New	1	1	-	-	4		
Existing	-	-	-	-	8		
Renewals	-	3	-	3	20		
Modifications	-	2	-	11	6		
Total	1	6	0	14	38	169	171
Demolition							
New	-	-	-	-	1		
Existing	-	-	-	1	-		
Renewals	-	1	-	-	1		
Modifications	-	-	-	5	-		
Total	0	1	0	6	2	21	21
Industrial							
New	-	-	-	-	3		
Existing	-	-	-	-	-		
Renewals	-	1	2	2	3		
Modifications	-	-	-	-	-		
Total	0	1	2	2	6	104	104
Sludge Disposal							
New	-	-	-	-	1		
Existing	-	-	-	-	1		
Renewals	-	-	-	-	-		
Modifications	-	-	-	-	-		
Total	0	0	0	0	2	12	13
Hazardous Waste							
New	-	-	-	-	-		
Authorizations	6	32	16	38	3		
Renewals	-	-	-	-	-		
Modifications	-	-	-	-	-		
Total	6	32	16	38		1	1
GRAND TOTALS	7	40	18	60	51	307	310

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division (Reporting Unit) — September 1979 (Month and Year)

PERMIT ACTIONS COMPLETED

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Domestic Waste Facilities	(none)		
Demolition Waste Facilities	(none)		
Industrial Waste Facilities	(2)		
Jackson	Boise Cascade, Medford Existing landfill	9/20/79	Permit renewed
Linn	Champion Building Products, Lebanon Plant Existing landfill	9/20/79	Permit renewed
Sludge Disposal Facilities	(none)		

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division (Reporting Unit) — September, 1979 (Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-NUCLEAR SYSTEMS, GILLIAM CO.

WASTE DESCRIPTION

Date	Type	Source	Quantity Present	Quantity Future
Disposal Requests Granted (14)				
Oregon (2)				
9-07-79	Oily caustic sludge	Drum Reconditioning	5,000 gals.	none
9- -79	Spent mixed organic solvents	Foundry	7 drums	none
Washington (9)				
9-04-79	Damaged pesticides	Chemical Supplier	15 drums	none
9-05-79	Contaminated muriatic acid	Oil Refinery	5,000 gals.	none
9-05-79	Spent ammoniacal cleaning solution	Federal Agency	--	400,000 gals/yr
9-10-79	PCB transformers	Electric Utility	6 units	6 units/ year
9-10-79	Heavy catechol etherification tar	Chemical Plant	40 drums	120 drums /year
9-11-79	a) Salt contaminated with chloroform	Chemical Plant	--	250,000 lbs/yr
	b) Hydroxybenzaldehyde distillation residues		--	60,000 lbs/yr

Hazardous Waste Disposal Requests (cont.)

9-13-79	Slimicide	Chemical Manufacturer	7 drums	7 drums/ year
9-14-79	Parformaldehyde sludge	Resin Plant	3,000 gals.	3,000 gals/6 mo
9-20-79	a) Paint sludges	Federal agency	--	54,480 gals/yr
	b) Old chemicals		--	12 drums /year
	c) otto fuel contaminated materials		--	832 drums /year
	d) Caustic and acids		--	47,000 gals/yr
Hawaii (1)				
9-26-79	a) PCB contaminated solids	Electric Utility	11 drums	none
	b) Used transformers		several units	25 units/ 18 mos.
	c) Capacitors		several units	15 units/ 18 mos.
Alaska (1)				
9-26-79	PCB contaminated materials	Federal Agency	11 drums	none
Alberta (1)				
9-19-79	Aqueous waste containing heavy metals, pulpmill waste, petrochemicals, agricultural pesticides and metal finishing waste	Treatment Plant	--	360,000 to 480,000 gallons

ACTIONS	LAST MONTH	PRESENT MONTH
Settlement Action	5	3
Preliminary Issues	4	4
Discovery	4	2
To be Scheduled	1	8
Hearing Scheduled	10	10
EQC Appeal Complete	0	1
Brief	0	0
Decision Due	6	4
Appeal to Commission	4	3
Inactive	1	2
SUBTOTAL of Active Files	35	37
Decision Out	0	2
Appeal to Court of Appeals	1	1
Case closed	2	1
TOTAL	38	41

KEY

ACD	Air Contaminant Discharge Permit
AQ	Air Quality
AQ-NWR-76-178	Violation involving Air Quality occurring in Northwest Region in the year 1976; 178th enforcement action during 1976.
CLR	Chris Reive, Investigation & Compliance Section
Cor	Wayne Cordes, Hearings Officer
CR	Central Region
Dec Date	Date of either a proposed decision of hearings officer or a decision by Commission
$	Civil Penalty Amount
ER	Eastern Region
Fld Brn	Field Burning incident
RLH	Robb Haskins, Assistant Attorney General
Hrngs	Hearings Section
Hrng Rfrl	Date when Investigation & Compliance Section requests Hearings Section to schedule a hearing
Hrng Rqst	Date agency receives a request for hearing
JHR	John Rowan, Investigation & Compliance Section
VAK	Van Kollias, Investigation & Compliance Section
LKZ	Linda Zucker, Hearings Officer
LMS	Larry Schurr, Investigation & Compliance Section
MWR	Midwest Region (now WVR)
NP	Noise Pollution
NPDES	National Pollutant Discharge Elimination System wastewater discharge permit
NWR	Northwest Region
FWO	Frank Ostrander, Assistant Attorney General
P	At beginning of case number means litigation over permit or its conditions
PR	Portland Region (now NWR)
PNCR	Portland/North Coast Region (now NWR)
Prtys	All parties involved
Rem Order	Remedial Action Order
Resp Code	Source of next expected activity on case
SNCR	Salem/North Coast Region (now WVR)
SSD	Subsurface Sewage Disposal
SW	Solid Waste
SWR	Southwest Region
T	At beginning of case number means litigation over tax credit matter
Transcr	Transcript being made of case
Underlined	Different status or new case since last month contested case log
WVR	Willamette Valley Region
WQ	Water Quality

September 1979
DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	DEQ or Atty	Hrng Offcr	Hrng Date	Resp Code	Dec Date	Case Type & No.	Case Status
Davis et al	05/75	05/75	RLH	LKZ	05/76	Resp	06/78	12 SSD Permits	Settlement Action
Paulsen	05/75	05/75	RLH	LKZ		Resp		02-SS-WVR-75-01 1 SSD Permit	Settlement Action
Faydrex, Inc.	05/75	05/75	RLH	LKZ	11/77	Hrgs		03-SS-SWR-75-02 64 SSD Permits	Reply brief filed 07/13/79; Decision Due First rough draft prepared
Mead and Johns et al	05/75	05/75	RLH	LKZ		All		04-SS-SWR-75-03 3 SSD Permits	Awaiting disposition of Faydrex
PGE (Harborton)	02/76	02/76	RPU	LKZ		Prtys		01-P-AQ-PR-76-01 ACD Permit Denial	Extension to 12-01-79 for filing exceptions Further requests for exceptions to be referred to Commission
Jensen	11/76	11/76	RLH	LKZ	12/77	Resp.	06/78	$1500 Fld Brn 05-AQ-SNCR-76-232	Exceptions due Oct. 29 if settlement not achieved
Mignot	11/76	11/76	LMS	LKZ	02/77	Resp	02/77	$400 06-SW-SWR-288-76	Appeal Dismissed Notice of appeal to Court of Appeals due October 29
Jones	04/77	07/77	LMS	Cor	06/09/78	Prtys		SSD Permit 01-SS-SWR-77-57	Dept's Exceptions filed 09-07-79 to be before EQC at October meeting
Three D Corp	05/77	06/77	RLH	LKZ	11/14/79	Resp		04-WQ-SNCR-77-101 $11,000 Total WQ Viol SNCR	Hearing to be set in Astoria unless executed Stipulation Received
Wright	05/77	05/77	RLH	LKZ	_____	Hrgs		$75 03-SS-MWR-77-99	At Court of Appeals
Magness	07/77	07/77	LMS	Cor	11/77	Hrngs		$1150 Total 06-SS-SWR-77-142	Decision Due. Draft completed
Grants Pass Irrig	09/77	09/77	RLH	LKZ		Prtys		$10,000 10-WQ-SWR-77-195	Hearing set in Medford
Zorich	10/77	10/77	FWO	Cor		Prtys		$100 08-NP-SNCR-77-173	Hearing to be reset in Astoria
Powell	11/77	11/77	RLH	Cor		Dept.		$10,000 Fld Brn 12-AQ-MWR-77-241	Dept. to subpena deposition
Carl F. Jensen	12/77	01/78	RLH	LKZ	11/19/79	Prtys		$18,600 Fld Brn 16-AQ-MWR-77-321	Hearing scheduled in Salem
Carl F. Jensen/ Elmer Klopfenstien	12/77	01/78	RLH	LKZ	11/19/79	Prtys		$1200 Fld Brn 16-AQ-SNCR-77-320	Hearing scheduled in Salem
Wah Chang	01/78	02/78	RLH	LKZ	11/27/79	Prtys		$5500 17-WQ-MWR-77-334	Hrng set in Portland
Hawkins	03/78	03/78	FWO	LKZ	12/17/79	Prtys.		$5000 15-AQ-PR-77-315	Hearing set in Portland
Hawkins Timber	03/78	03/78	FWO	LKZ		Prtys.		$5000 15-AQ-PR-77-314	No action pending hearing in companion case
Wah Chang	04/78	04/78	RLH	LKZ		Prtys		16-P-WQ-WVR-2849-J NPDES Permit (Modification)	Preliminary Issues
Wah Chang	11/78	12/78	RLH	LKZ		Prtys		08-P-WQ-WVR-78-2012-J	Preliminary Issues
Stimpson	05/78		FWO	LKZ	07/24/79	Hrgs		Tax Credit Cert. 01-T-AQ-PR-78-010	Decision Due
Vogt	06/78	06/78	LMS	Cor	11/08/78	Resp.		$250 Civil Penalty 05-SS-SWR-78-70	Order issued Request for review due October 29
Hogue	07/78	07/79	LMS	LKZ	10/11/79	Resp.		15-P-SS-SWR-78	Hearing delayed pending approval of Alternate system

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	DEQ or Atty	Hrng Offcr	Hrng Date	Resp Code	Dec Date	Case Type & No.	Case Status
Welch	10/78	10/78	RLH	LKZ		Dept		07-P-SS-CR-78-134	Discovery
Reeve	10/78		RLH	LKZ		Dept		06-P-SS-CR-78-132 & 133	Hearing deferred 60 days pending settlement
Bierly	12/78	12/78	VAK	LKZ	10/30/79	Prtys		$700 08-AQ-WVR-78-144	Hearing set in Albany
Glaser	01/79	01/79	LMS	LKZ	10/02/79	Prtys		$2200 09-AQ-WVR-78-147	Hearing Rescheduled for 10-02-79 in Albany
Hatley	01/79	02/79	CLR	LKZ	08/10/79	Hrgs.		$3250 10-AQ-WVR-78-156	Decision out 10/08/79
Wah Chang	02/79	02/79	RLH	LKZ		Prtys		$3500 12-WQ-WVR-78-187	Hearing on Resp's Motion 10/05/79 in Portland
TEN EYCK	12/78	08/79	LMS	LKZ		Dept.		02-P-SS-ER-78-06	Hearing deferred until completion of monitoring
Loren Raymond	04/79	04/79	FWO	LKZ	08/28/79	Hrgs.		02-P-SS-ER-79-02	Decision due
Martin, Leona	05/79	05/79	CLR	LKZ	10/18/79	Ptys.		$250 04-SS-SWR-79-49	At Issue, hrng Scheduled in Roseburg
~~Templin and Klemp~~	~~06/79~~	~~06/79~~	~~CLR~~	~~LKZ~~	~~09/26/79~~	~~Hrgs~~		~~$600 05-AQ-WVR-79-52~~	~~Case Closed by Stipulated Order Civil Penalty reduced to $300~~
Don Obrist, Inc.	07/79	07/79	RLH	LKZ		Prtys		Solid Waste Permit Amendment 07-P-SW-213-NWR-79	Action deferred to to Oct. pending informal settlement
Johnson, Melvin	06/79				10/05/79	Prtys		$100-19-SS-PR-77-35 $750-19-SS-PR-77-97	Hearing scheduled in Portland
Klinepier, Richard I.	09/79	09/79				Dept		08-P-SS-WVR-79-03 Subsurface sewage permit denial	To be scheduled
Callahan, Gerald R.	09/79	09/79	CLR			Dept		09-SS-ER-79-61 Civil Penalty of $150	To be scheduled
Deschutes Ready-Mix Sand & Gravel Co.	09/79	09/79				Resp		10-WQ-CR-79-82 Civil Penalty of $7,000	To be scheduled
Kruger, Walter A.	09/79	09/79				Dept		11-AQ-NWR-79-97 Open Burning Civil Penalty of $250	To be scheduled
Barker, Michael	10/79	10/79						12-SS-SWR-79-56 SS Permit revocation	Discovery

VICTOR ATIYEH
GOVERNOR

Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207
522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item C, November 16, 1979, EQC Meeting

TAX CREDIT APPLICATIONS

Director's Recommendation

It is recommended that the Commission take action as follows:

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

T-1105	Willamette Industries, Inc.
T-1106	Willamette Industries, Inc.
T-1107	Willamette Industries, Inc.
T-1108	Willamette Industries, Inc.
T-1118	Stayton Canning Company, Cooperative
T-1120	Champion International Corporation
T-1121	Champion International Corporation
T-1122	Champion International Corporation
T-1123	Champion International Corporation
T-1124	Champion International Corporation
T-1126	Champion International Corporation
T-1127	Champion International Corporation
T-1128	Willamette Industries, Inc.
T-1129	Martin Marietta Aluminum, Inc.

2. Issue an Order to deny Preliminary Certification for Tax Credit to North Pacific Grain Growers, Inc. per the attached review report.

Michael Downs
for
WILLIAM H. YOUNG

MJDowns:cs
229-6485
November 7, 1979
Attachments

PROPOSED NOVEMBER 1979 TOTALS

Air Quality	$ 953,084
Water Quality	7,329,405
Solid Waste	-0-
Noise	-0-
	$8,282,489

CALENDAR YEAR TOTALS TO DATE

Air Quality	$ 6,868,277
Water Quality	6,043,453
Solid Waste	1,928,071
Noise	94,176
	$14,933,977

Appl T-1105
Date 10/10/79

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Willamette Industries, Inc.
Duraflake Division
3800 First National Bank Tower
Portland, OR 97201

The applicant owns and operates a particle board plant at Millersburg.

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 Carter Day baghouse which controls emissions from Cyclones No. 501 and 507. Collected material is disposed of in the Line No. 2 Reject Pit.

Request for Preliminary Certification for Tax Credit was made on 4/20/78, and approved on 5/17/78.

Construction was initiated on the claimed facility on 6/1/78, completed on 8/15/78, and the facility was placed into operation on 7/17/78.

Facility Cost: $43,115.07 (Accountant's Certification was provided).

3. Evaluation of Application

This baghouse was required as part of the variance to operate the particle driers which was granted by the Environmental Quality Commission. The baghouse required rework after startup--resulting in the facility being placed into operation a month earlier than the date the system was considered complete. The source operates in compliance with all Department emission limits.

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 Environmental Quality Commission and is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.

e. The only purpose of this baghouse is air pollution control. Collected material is of no economic value to the company, therefore 80% or more of the cost of this facility 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 $43,115.07 with 80% or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-2205.

F. A. Skirvin:le
(503) 229-6414
October 26, 1979

AL4207

Appl T-1106
Date 10/4/79

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Willamette Industries, Inc.
Duraflake Division
3800 First National Bank Tower
Portland, OR 97201

The applicant owns and operates a particle board plant at Millersburg.

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 23,000 square foot storage building to cover the green wood shaving storage pile.

Request for Preliminary Certification for Tax Credit was made on June 28, 1978, and approved on July 7, 1978.

Construction was initiated on the claimed facility on July 17, 1978, completed on May 1, 1979, and the facility was placed into operation on May 1, 1979.

Facility Cost: $430,437.16 (Accountant's Certification was provided).

3. Evaluation of Application

This raw material storage building covers and encloses the green material storage piles. Before construction of this building, the raw material storage piles were exposed to the wind which resulted in fugitive emission problems in the surrounding neighborhood. Construction of the building has reduced fugitive emissions from this plant.

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 Environment Quality and is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.

e. Primary purpose of this raw material storage building is air pollution control. There is no significant economic advantage to the company resulting from construction of this building; therefore, 80 percent or more 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 $430,437.16 with 80 percent or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-1106.

F. A. Skirvin:oe
AO2295
(503) 229-6414
October 9, 1979

Appl T-1107
Date 10/11/79

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Willamette Industries, Inc.
Korpine Division
53800 First National Bank Tower
Portland, OR 97201

The applicant owns and operates a particle board manufacturing plant at 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 Terravac vacuum truck. This vacuum truck is used to remove wood waste from plant roads, buildings, and equipment. This prevents the wood waste from being reentrained by the wind. The use of this truck has reduced fugitive emissions in the surrounding areas.

Request for Preliminary Certification for Tax Credit was made on August 25, 1978, and approved on September 11, 1978.

Construction was initiated on the claimed facility on September 6, 1978, completed on September 6, 1978, and the facility was placed into operation on September 13, 1978.

Facility Cost: $49,140.47 (Accountant's Certification was provided).

3. Evaluation of Application

This vacuum truck is used to remove wood waste from the plant site and equipment. This is wood waste that has escaped from the cyclones or processes from the plant. In the past it has become reentrained by the wind and left the plant site. This truck is an effective means of controlling fugitive emissions and it only used to reduce air pollution.

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 not required by the Department of Environmental Quality; however, it does satisfy the intent and purposes of ORS Ch 468 and the rules adopted under that chapter.

e. The primary purpose of this vacuum truck is air pollution control. Collected material is of no economic value; therefore, 80 percent or more 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 $49,140.47 with 80 percent or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-1107.

F. A. Skirvin:o
AO2333
(503) 229-6414
October 17, 1979

Appl T-1108
Date 10-10-79

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Willamette Industries, Inc.
Korpine Division
3800 First National Bank Tower
Portland, Oregon 97201

The applicant owns and operates the partical board plant at 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 baghouse which controls emissions from in-feed tables and finish sanders.

Request for Preliminary Certification for Tax Credit was made on February 22, 1978, and approved on March 31, 1978.

Construction was initiated on the claimed facility on March 1, 1978, completed on July 10, 1978, and the facility was placed into operation on July 10, 1978.

Facility Cost: $64,769.26 (Accountant's Certification was provided).

3. Evaluation of Application

The only purpose of this baghouse installation is air pollution control. Collected material is of no economic value to the company. This bag house operates in complinace with the Department's emission limits.

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 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 only purpose of this facility is pollution control, therefore, 80% or more 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 $64,769.26 with 80% or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-1108.

F. A. Skirvin:n
(503) 229-6414
October 17, 1979
AN8378

Appl No. T-1118
Date November 6, 1979

STATE OF OREGON - DEPARTMENT OF ENVIRONMENTAL QUALITY
Tax Relief Application Review Report

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1. Applicant

Stayton Canning Company, Cooperative
Liberty-Plant Number 4
930 West Washington
Stayton, OR 97383

The applicant owns and operates a plant canning and freezing fruits and vegetables at 4752 Liberty Road South in Salem.

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

2. Description of Claimed Facility

The facility described in this application is an effluent pH control system including:

a. Stainless steel caustic storage tank.
b. Chemical metering pump. (AMF CUNO)
c. Chemtrix pH sensors and controllers-2.
d. Piping and electrical.
e. pH control building.

Request for Preliminary Certification for Tax Credit was made on April 21, 1978, and approved on May 11, 1978. Construction was initiated on the claimed facility in April 24, 1978, completed and placed into operation November 1, 1978.

Facility Cost: $11,590.39 (Accountant's Certification was provided).

3. Evaluation of Application

The industrial effluent is discharged to the Salem Sanitary System (Willow Lake). The applicant was directed to adjust pH by the city of Salem. The applicant claims that the facility serves this purpose. Staff verifies this.

4. Summation

a. Facility was constructed under a Preliminary Certificate of Approval 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 intents 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

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of $11,590.39 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application Number T-1118.

Charles K. Ashbaker:fo
(503) 229-5325
November 6, 1979

WF3141

Appl T-1120
Date November 6, 1979

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Champion International Corporation
Champion Building Products
Box 10278
Eugene, OR 97440

The applicant owns and operates a green veneer to finished plywood mill at Willamina.

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

2. Description of Claimed Facility

The facility described in this application is a chemical storage tank containment wall and catch basin. The entire area is covered to prevent storm run off contamination.

Request for Preliminary Certification for Tax Credit was made November 30, 1977, and approved December 23, 1977. Construction was initiated on the claimed facility January 2, 1978, completed, and the facility was placed into operation April 1, 1978.

Facility Cost: $32,456.00 (Accountant's Certification was provided).

3. Evaluation of Application

The facility would be effective in preventing pollution of the South Yamhill River should a chemical spill occur and prevent contamination of storm run off, thus implementing the United States Environmental Protection Agency Spill Prevention and Contingency Requirements.

4. Summation

a. Facility was constructed under a Preliminary Certificate of Approval 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 intents 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

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of $32,456.00 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1120.

C. K. Ashbaker:ao
(503) 229-5325
November 6, 1979

WA2064.C

Appl T-1121
Date 10/15/79

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Champion International Corp.
Champion Building Products Divison
Box 10228
Eugene, Oregon 97440

The applicant owns and operates a plywood plant at Willamina.

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

2. Description of Claimed Facility

The facility described in this application consists of dryer end seals for three steam heated dryers. These end seals prevent additional outside air from leaking into the dryer, thereby reducing the quantity of emissions which must be treated.

Request for Preliminary Certification for Tax Credit was made on November 4, 1976, and approved on December 14, 1976.

Construction was initiated on the claimed facility on January 15, 1977, completed on April 1, 1977, and the facility was placed into operation on April 1, 1977.

Facility Cost: $43,159 (Accountant's Certification was provided).

3. Evaluation of Application

Prior to installation of these green end seals the company was, at times, in violation of veneer dryer emission limits. The addition of the dryer end seals reduces the quantity of exhaust gases exiting the dryer. The control equipment was not capable of treating all of the dryer emissions. The Department has determined that these dryers are now capable of operating in compliance with the emission limits.

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 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 the dryer end seals is air pollution control. There is no significant economic advantage to the company from the installation of this equipment, therefore, 80% or more is allocable as pollution control.

5. Director's Recommendation

Based upon the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of $43,159 with 80% or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-1121.

F. A. Skirvin:n
AN8400
(503) 229-6414
October 19, 1979

Appl T-1122
Date 10/22/79

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Champion International Corporation
Champion Building Products Division
Box 10228
Eugene, OR 97440

The applicant owns and operates a plywood plant at Lebanon.

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

2. Description of Claimed Facility

The facility described in this application consist of two baghouses to control emissions from cyclones 39 and 47.

Request for Preliminary Certification for Tax Credit was made on November 4, 1976, and approved on May 9, 1977.

Construction was initiated on the claimed facility on April 1, 1977, completed on July 1, 1977, and the facility was placed into operation on August 3, 1977.

Facility Cost: $96,094 (Accountant's Certification was provided).

3. Evaluation of Application

The addition of baghouses to control emissions from these two cyclones resulted in a significant decrease in the emissions from these cyclones. The primary purpose of these baghouses is air pollution control. There is no economic incentive to the company for installation of these baghouses.

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 Mid-Willamette Valley Air Pollution Authority 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 these baghouses is air pollution control. There is no economic advantage to the company, therefore, 80 percent or more of the cost of these units 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 $96,094 with 80 percent or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-1122.

F. A. Skirvin:o
AO2367
(503) 229-6414
October 30, 1979

Appl T-1123
Date November 6, 1979

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Champion International Corporation
Champion Building Products
Box 10228
Eugene, OR 97440

The applicant owns and operates a green veneer to finished plywood mill at Lebanon.

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

2. Description of Claimed Facility

The facility described in this application is a veneer dryer washdown water recirculation system consisting of:

a. Collection troughs and sump
b. Chopper pump.
c. Screen - 4 by 4 liquatex.
d. Storage tank and recirculation pump.

Request for Preliminary Certification for Tax Credit was made May 10, 1977, and approved June 17, 1977. Construction was initiated on the claimed facility June 15, 1977, completed October 15, 1977, and the facility was placed into operation November 28, 1977.

Facility Cost: $50,276.00 (Accountant's Certification was provided).

3. Evaluation of Application

Caustic veneer dryer washdown water effluent from six dryers has been eliminated from reaching the South Santiam River. Construction of the facility was required by the Department.

4. Summation

a. Facility was constructed under a Preliminary Certificate of Approval 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 intents 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

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of $50,276.00 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1123.

C. K. Ashbaker:ao
(503) 229-5325
November 6, 1979

WA2064.B

Appl: T-1124
Date: November 6, 1979

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Champion International Corporation
Champion Building Products
Box 10228
Eugene, OR 97440

The applicant owns and operates a green veneer to finished plywood mill at Rifle Range Road in Roseburg.

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

2. Description of Claimed Facility

The facility described in this application is an oil storage covered area containment retaining wall and collection sump.

Request for Preliminary Certification for Tax Credit was made November 30, 1977, and approved February 27, 1978. Construction was initiated on the claimed facility February 11, 1978, completed, and the facility was placed into operation May 9, 1978.

Facility Cost: $6,163.00 (Accountant's Certification was provided).

3. Evaluation of Application

The claimed facility eliminates contamination of storm run off water and prevents oil spills from reaching surface waters and implements the Environmental Protection Agency Spill Prevention and Contingency Plan.

4. Summation

a. Facility was constructed under a Preliminary Certificate of Approval 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 intents 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

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of $6,163.00 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1124.

C. K. Ashbaker:ao
(503) 229-5325
November 6, 1979

WA2064

Appl T-1126
Date November 6, 1979

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Champion International Corporation
Champion Building Products
Box 10228
Eugene, OR 97440

The applicant owns and operates a green veneer to finished plywood mill at Gold Beach.

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

2. Description of Claimed Facility

The facility described in this application is an addition to the existing glue spreader wash water recycling system and included the installation of a pump and Sweco screen to improve the operation.

Request for Preliminary Certification for Tax Credit was made September 10, 1977, and approved September 30, 1977. Construction was initiated on the claimed facility November 1, 1977, completed, and the facility was placed into operation February 1, 1978.

Facility Cost: $15,802.00 (Accountant's Certification was provided).

3. Evaluation of Application

The claimed facility removes wood slivers and pieces from the system which previously caused plugging and spills before installation of screening. The applicant claims that spills and waste water treatment downtime have been greatly reduced.

4. Summation

a. Facility was constructed under a Preliminary Certificate of Approval 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 intents 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

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of $15,802.00 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1126.

C. K. Ashbaker:ao
(503) 229-5325
November 6, 1979

WA2064.A

Appl T-1127
Date 10/15/79

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Champion International Corporation
Champion Building Products Division
Box 10228
Eugene, OR 97440

The applicant owns and operates a plywood plant at Lebanon.

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

2. Description of Claimed Facility

The facility described in this application consists of a Clarke Pneu-Aire Baghouse to control sander dust emissions from a new sander.

Request for Preliminary Certification for Tax Credit was made on February 22, 1977, and approved on March 21, 1977.

Construction was initiated on the claimed facility on April 1, 1977, completed on July 1, 1977, and the facility was placed into operation on July 15, 1977.

Facility Cost: $151,937 (Accountant's Certification was provided).

3. Evaluation of Application

The existing sanders and control system complied with all Department regulations. The installation of the new sander would increase the air flows to the existing baghouse above it's rated capacity, therefore, the new baghouse was installed. The baghouse operates in compliance Department regulations.

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 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 only purpose of this baghouse is air pollution control. There is no economic advantage to the company from the installation of this equipment. Therefore, 80 percent or more of the cost of this equipment 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 $151,937 with 80 percent or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-1127.

F.A. Skirvin:j
(503) 229-6414
October 19, 1979

Appl T-1128
Date 10-22-79

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Willamette Industries, Inc.
Duraflake Division
3800 First National Bank Tower
Portland, Oregon 97201

The applicant owns and operates a particle board plant at Millersburg.

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

2. Description of Claimed Facility

The facility described in this application is an Elgin-Whitewing Street Sweeper.

Request for Preliminary Certification for Tax Credit was made on June 30, 1978, and approved on July 17, 1978.

Construction was initiated on the claimed facility on October, 1978, completed on October, 1978, and the facility was placed into operation on October, 1978.

Facility Cost: $25,535 (Accountant's Certification was provided).

3. Evaluation of Application

The street sweeper is used to sweep black-topped areas of the plant site. The sweeper collects wood dust, which might otherwise be entrained by the wind and blown off the plant property. This sweeper reduces fugitive emissions from the plant site. Since there is no other purpose for this facility, the total cost is allocable to pollution control.

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 not required but does satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.

e. The only purpose of the street sweeper is air pollution control. There is no economic advantage to the company from purchase of this equipment, therefore, 80% or more of the cost of this facility 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 $25,535 with 80% or more allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-1128.

F. A. Skirvin:n
AN8429
(503) 229-6414
October 26, 1979

Appl T-1129
Date 11/6/79

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Martin Marietta Aluminum, Inc.
Reduction Division
Box 711
The Dalles, OR 97058

The applicant owns and operates an industrial process for the reduction of alumina to primary aluminum in the form of ingot, billet and pig at The Dalles.

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

2. Description of Claimed Facility

The facility described in this application is a dry scrubber system for pot gas treatment to remove fluorides and particulate and consists of:

a. pot ducting
b. cyclone collectors
c. silos (500 ton + 200 ton)
d. reactor
e. air float conveyors, blowers, air piping, and valves
f. bag house (6 compart.)
g. structures & foundations
h. electrical power & lighting
i. controls and alarms
j. wet sulfur dioxide scrubber

Request for Preliminary Certification for Tax Credit was made April 29, 1976, and approved June 2, 1976. Construction was initiated on the claimed facility September, 1977, completed April 1, 1979, and the facility was placed into operation February 12, 1979, before total completion.

Facility Cost: $7,213,145 (Accountant's Certification was provided).

3. Evaluation of Application

The claimed facility removes 3000 pounds per day of fluoride wet scrubber discharge from the Columbia River and fifteen tons per day of sludge from land disposal. The claimed dry facility returns these to the process. SO_2 is, as was before, removed from the pot gases. Facility was considered necessary to enable applicant to attain NPDES Fluoride Compliance.

Although there is value in the aluminum floride returned to the process ($1,311,000), annual operating expenses are greater ($2,164,292). Therefore the facility operates at a loss.

4. Summation

a. Facility was constructed under a Preliminary Certificate of Approval 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 intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.

e. Applicant claims 100% of costs allocable to pollution control. Operating costs exceed the value of recovered materials.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of $7,213,145 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1129.

C. K. Ashbaker:jo
(503) 229-5325
November 6, 1979

WJ7550

STATE OF OREGON - DEPARTMENT OF ENVIRONMENTAL QUALITY

Preliminary Certification Review Report

1. Applicant

North Pacific Grain Growers, Inc.
1 Southwest Columbia, No. 600
Portland, Oregon 97258

The applicant owns and operates a regional grain merchandising and warehouse business at Portland, Oregon and Kalama, Washington.

Preliminary certification is required for an air pollution control facility.

2. Description of Claimed Facility

The facility described in this application is one 1979 Toyota Corolla car (automobile) to replace four private cars used by employees to commute to work in downtown Portland.

It is estimated the facility will be placed in operation October 1, 1979.

The estimated cost of the facility is $3,500.00.

3. Evaluation of Application

The Department had previously received another inquiry concerning the possible eligibility for a tax credit for passenger vans purchased by a company when the vehicles are used by the employees for car-pooling to work. The resulting reduction in car mileage and corresponding exhaust emissions would be claimed as the substantial purpose for pollution control. This question was subsequently presented to the Department's legal counsel. The informal opinions of Assistant Attorney Generals Robert L. Haskins and Donald Arnold are attached and are used in the evaluation of this application.

Supplying a company car for use by employees to "car pool" to work in is not considered by the Department's legal counsel to be a "pollution control facility" under ORS 468.155(1), ""As used in ORS 468.155 to 468.190, unless the context requires otherwise, "pollution control facility" or "facility" means any land, structure, building, installation, excavation, machinery, equipment or device, or any addition to, reconstruction of or improvement of land or an existing structure, building, installation, excavation, machinery, equipment or device reasonably used, erected, constructed or installed by any person if a substantial purpose of such use, erection, construction or installation is the prevention, control or reduction of air, water or noise pollution or solid waste by: (a) - - -; (b) the disposal or elimination of or redesign to eliminate air contaminants or air pollution or air contamination sources and the use of air cleaning devices as defined in ORS 468.275; (c) - - -""

In response to a similar inquiry concerning eligibility of a company receiving tax credit on buying a passenger van for employees to "van pool" to work in, Assistant Attorney General Donald Arnold's informal opinion is that "a passenger van is (not) covered by the words "machinery, equipment or device" included in the definition of "polllution control facility". He goes on to explain that "the legislature intended only to cover pollution control facilities directly related to operation of the industry or enterprise seeking the tax credit". (See the attached memorandum dated October 4, 1979 from Donald Arnold to James A. Redden, Attorney General).

Also, the company supplied Toyota Corolla is not considered a "pollution control facility" because the company cannot ensure a net reduction in air contaminant emissions. The company has no control over the use of the private cars freed for other uses by the company provided car-pool car. (This condition is expanded upon in Assistant Attorney General Robert L. Haskins' informal opinion in the attached letter dated September 17, 1979 to Mr. William H. Young, Director).

The Toyota Corolla in this application has two uses:

1. It is used by four employes to car-pool from the Beaverton area to the Portland office and

2. It is used to make one round trip during the work day between the Portland office and the Kalama, Washington terminal grain elevator in order to deliver grain samples and shipping documents between the two facilities.

   If preliminary certification were approved, the final pollution control would be less than 100 percent based upon the relative mileage of the two uses of the car or some other equitable means.

4. Summation

1. An Assistant Attorney General's informal opinion indicates that the Legislature intended to grant pollution control tax credits only for facilities directly related to operation of the industry or enterprise seeking the tax credit.

2. The applicant, North Pacific Grain Growers, cannot ensure a net reduction in air contaminant emissions by substituting a company car-pool car for private cars used for commuting to work.

3. The Department has determined that the erection, construction or installation does not comply with the applicable provisions of ORS Chapter 468; therefore, the facility is not eligible for tax credit certification.

5. Director's Recommendation

Based upon the findings in the summation, it is recommended that the Commission issue an order denying the applicant's request for Preliminary Certification.

F. A. Skirvin:pw
229-6414
November 1, 1979

GDLNS:AP7073

JAMES A. REDDEN
ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

PORTLAND DIVISION
500 Pacific Building
520 S.W. Yamhill
Portland, Oregon 97204
Telephone: (503) 229-5725

September 17, 1979

Mr. William H. Young, Director
Department of Environmental Quality
Yeon Building
522 S. W. Fifth Avenue
Portland, Oregon 97204

Re: Pollution Control Tax Credit for an Automobile Passenger Van

Dear Mr. Young:

By letter dated August 17, 1979, to Ray Underwood, Chief Counsel of this office, you requested an informal opinion on your question of whether the Department of Environmental Quality is prevented from certifying for a pollution control tax credit the cost (or apportioned cost) of an automobile passenger van purchased by a private employer for the purpose of providing to his employees a mode of transportation to and from work in order to reduce the amount of air pollution and noise that would otherwise result from the use of individual automobiles. Ray asked me to respond to your letter.

In my view, although DEQ theoretically has the statutory authority to so certify, it is unlikely that the applicant would make the showing required under the statutes for certification.

Although passenger motor vehicles are not specifically included in the definition of "pollution control facility" or "facility" in ORS 468.155, the use of the words "machinery, equipment or device" in the definition would probably include passenger motor vehicles. However, that is only the first hurdle. Additionally, in order to qualify as such a facility, the machine, etc., must be installed or used with "a substantial purpose . . . [being] the prevention, control or reduction of air, . . . or noise pollution . . . by:

* * * *

"(b) The disposal or elimination of or redesign to eliminate air contaminants or air pollution

> or air contamination sources and the use of air cleaning devices as defined in ORS 468.275; [or]
>
> "(c) The substantial reduction or elimination of or redesign to eliminate noise pollution or noise emission sources as defined by rule of the commission;" (ORS 468.155(1); (emphasis added.)

This should be a factual question in each case. The Commission has not adopted any definitional rule as referred to in ORS 468.155(1)(c). However, the replacement of numerous sources of air pollution with a single more efficient source (from the standpoint of units of pollution per passenger mile) could conceivably qualify. It should be noted that the legislature used the language "a substantial purpose" (emphasis added). It clearly does not mean the sole purpose. Neither does it appear to mean the primary or major purpose. This is evident from the fact that the legislature has envisioned and provided for the certification of facilities where less than 20 percent of the costs thereof are "properly allocable to the prevention, control or reduction of air, . . . or noise pollution . . .." ORS 468.190.

Although an employer in so purchasing and using an automobile theoretically could have as a substantial purpose the prevention, control, or reduction of air and noise pollution, it is unlikely that it would have sufficient control over the facts to ensure a reasonable likelihood of that result given the set of facts which you have assumed. In other words, the purported substantial purpose must be predictably reasonably attainable through use of the proposed facility. You have assumed that the employees who would ride the employer's van each previously had used individual automobiles to go to work. In reality, that may or may not be the case. Presumably, on the average, some employees use public transportation, some participate in car pools, some walk, some ride bicycles, some ride motorcycles, etc., and some drive alone to work in their own cars. Of course, placing a former bicycle rider in a van would not reduce, etc., air pollution. Each possible variation in the scenario would have to be analyzed on its own merits.

Even assuming that each employee intended to be transported by the van had previously gone to work alone in his own automobile, the reduction, etc., of air pollution would not necessarily be reasonably certain for several reasons. First, although when the employees use the van instead of their own autos their emissions per passenger mile no doubt are reduced, it is very likely that in many cases their family emissions would increase. For example, in the case

of a one-car family, the use of the employer's van by the employee might free the family's auto for use by other family members and possibly exceed the previous use of that car and thereby exceed its previous contribution to air pollution.

Second, even if the prospective riders are carefully chosen, it is unlikely that an employer could or would reasonably guarantee that any immediate gains would be perpetuated. It would be unlikely, but not impossible, that the employer would attempt to guarantee continued use of the van by its employees chosen to be transported such as by requiring continued use as a special condition in an employment contract. However, nothing could guarantee that the chosen employees would continue employment with the employer!

Of course, if the employer could make the requisite showing and obtain a certificate, the employer would have to transport substantially only qualifying employees throughout the period of use of the vehicle or risk loss of the certificate and future benefits thereunder. ORS 468.185(1)(b). Additionally, once an employee qualified he would have to continue to qualify if he continued to use the certified vans in order to maintain the certifications. At the least that would mean that he would have to continue to maintain the potential legal and financial abilities to drive his own automobile to work. In light of escalating gasoline prices and actual shortages, continuing qualification might not be assured. Additionally, if an otherwise qualified employee should lose his driver's license, he likely would no longer qualify.

Essentially, the employer in the assumed factual situation would be applying for a pollution control tax certificate not for reducing its own pollution (presumably its own emissions would increase by the amount of the van's emissions), but rather for reducing the pollution of third parties. The Commission has not previously granted a tax certificate to an applicant who proposed to reduce a third party's pollution instead of its own pollution. Although the statutes do not expressly prevent such an interpretation, the legislature may not have intended it. There is one well-known situation where one entity commonly reduces a third party's pollution. That is in the case of the common sewage treatment plant. No other analagous common situation readily comes to mind. In that one situation, the legislature has expressly excluded sewage treatment plants from eligibility for tax credits. ORS 468.155(2). That might also reflect the intentions of the legislature regarding the general proposition.

In summary, eligibility for a pollution control tax credit certificate must be determined in each case by analyzing the unique facts of each proposal. Although certification of an employee van is theoretically possible, it is unlikely that the requisite factual showing would be made to qualify. However, the above discussion should not be construed to eliminate the possibility of certifying only an automobile pollution control device rather than the whole automobile.

Please call me if you have any questions.

Sincerely,

Robert L. Haskins
Assistant Attorney General

kth/hk

DEPARTMENT OF JUSTICE

Memorandum

TO: James A. Redden
Attorney General

DATE: October 4, 1979

FROM: Donald Arnold 378-6319
Assistant Attorney General

SUBJECT: Pollution Control Tax Credit for Passenger Vans

You ask that I review the conclusions reached in Rob Haskins attached letter to DEQ.

I believe that letter takes ~~too liberal~~ an approach concerning DEQ's authority to certify a passenger van system for the pollution control tax credit. Specifically, I do not agree that a passenger van is covered by the words "machinery, equipment or device" included in the definition of "pollution control facility." ORS 468.155(1).

It seems clear to me the legislature intended only to cover pollution control facilities directly related to operation of the industry or enterprise seeking the tax credit. In this regard, I agree with the first sentence of the last paragraph on page 3 of Rob's letter.

Research into the legislative history of ORS 468.155 revealed that the legislation was patterned after similar legislation existing in 23 other states. The definition of "pollution control facility" probably originated in another state, but it is difficult to tell from the legislative records exactly which state provided the definition.

Throughout the legislative hearings on this measure no mention was made of shared van use by employes as a method reducing air pollution and eligible for a tax credit.

The comments of Herbert Hardy, an attorney speaking on behalf of several industries, as to the intent of the measure is typical of the testimony on file:

> "This [bill] is an incentive measure to encourage industries and commercial enterprises to speed up the installation of pollution control devices for both air and water. By the incentives provided, we believe that industry will itself spend large sums on research and engineering to find ways and means to control, reduce or eliminate pollution and to install such devices as will accomplish those ends."

[Testimony May 11, 1967 before House Tax Committee on SB 546]

The emphasis on installing pollution control devices indicates that the concern of the measure was to reduce pollutants emitted from the industry facilities. Motor vehicles used to transport employes to and from work are unrelated to the pollutants emitted from the work place itself. Vehicles cannot be "installed" in the workplace.

The legislature has provided other measures for reducing automobile emissions. (ORS 468.360-468.405) Thus, the legislative intent behind ORS 468.155 appears to be reducing pollution from industrial facilities and not from vehicles used by the employes to go to and from work.

In short, I do not believe DEQ has authority to certify a passenger van pool system for a pollution control tax credit.

ld

Victor Atiyeh
Governor

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. D, November 16, 1979, EQC Meeting

Request for Authorization for Public Hearing to Consider Amendments to the Motor Vehicle Emission Testing Rules that Provide for Housekeeping Changes Including the Clarification of Allowable Engine Changes, OAR 340-24-300 though 24-350.

Background

From time to time the Commission has considered various housekeeping changes in the inspection program rules outside of the normal rules review and update which usually occurs in the spring of the year. The Commission is being requested to authorize a public hearing for the purpose of considering rule revisions (Appendix A) in the following areas.

OAR 340-24-320 Paragraph 3 Subsection d. Delete 1971. This date is redundant and unnecessary.

OAR 340-24-320 Paragraph 6. This paragraph changes Department's inspection program policy on car engine changes and provides that the inspection standards will be based upon the original manufacturers' design engine package effective January 1, 1980.

OAR 340-24-320 Paragraph 7. Deletes this paragraph because of changes in statute which eliminates the testing requirement for electric vehicles.

OAR 340-24-325 Paragraph 6. Here again this paragraph serves the same purpose as the previous 320 paragraph 6 except that it applies to heavy duty trucks.

OAR 340-24-340 Paragraph 3. This changes the expiration date of the fleet license programs so that they expire at the end of the year rather than throughout the year.

OAR 340-24-350 Paragraph (3). This changes the expiration date of analyzer licenses so that they expire at the end of the year.

Evaluation

The Department is proposing changes in the inspection program rules. These are primarily housekeeping changes to coordinate the rule with recent statute changes and changes that delete unimportant reference dates, and changes to ease the recordkeeping for both the Department and its licensed private fleets. With the exception of 340-24-320(6) and 325(6), the changes are all relatively minor.

OAR 340-24-320(6) and 325(6), however, does propose a major policy shift in one aspect of the inspection program. Currently, the Department policy and rules provide and allow for the owner of an automobile to make engine changes. If any engine change is made, then for the purposes of the inspection the year, and therefore the emission category of the vehicle, is based upon the engine make rather than the vehicle make. While engine changes account for about 1% of the Department's testing load, the reason for this proposed modification is that there is 1) increasing confusion concerning the correct category of classification for the "hybrid " engine system, 2) an incompatibility to mate modern technology with older engine systems and 3) the fact that a small element of the general population has been using the current policy as a loop hole to disconnect their vehicle's pollution control equipment. The technological outlook indicates that the new electronics which will be incorporated on the newer cars will not be compatible with older engines. In order to maintain these vehicles pollution control capabilities, these advanced systems will need to be maintained in their original configuration.

It is proposed that for 1974 and earlier vehicles, the present policy allowing identification by the year of engine would be continued. For 1975 and later model year motor vehicles the vehicle would be identified by the chassis, i.e. its initial make, model, and engine configuration. This would provide that vehicle owners be required to maintain the engine systems of 1975 and later vehicles as they were designed and manufactured. The proposed effective date is January 1, 1980. Any engine changes done prior to that date would fall under the old rules and be allowed, but no new engine changes for 1975 and later motor vehicles would be allowed after the January 1, 1980 date.

These proposed changes, both in terms of the housekeeping measures and the engine change proposal, will continue to make the inspection program viable and effective.

In order to meet various legal time restraints, a public hearing has been tentatively scheduled for December 6, 1979. The statement of need is attached as Appendix B. The notice of public hearing is attached as Appendix C.

Summation

The Commission is being asked to authorize a public hearing. The proposed rule revision would 1) eliminate redundant dates and references, made obsolete by statute changes, 2) make more efficient the fleet self-inspection program, and 3) and change policy with regard to engine changes. It is estimated that less than one percent (1%) of the customers going through the inspection program would be affected. These proposed rule revisions would take care of minor problems for the inspection program and would provide for a greater uniformity in the inspection process.

Directors Recommendation

Based on the summation it is recommended that authorization for a public hearing be granted.

Bill

William H. Young
Director

William P. Jasper:no
229-5081
November 2, 1979
VN8363

PROPOSED REVISION TO OREGON ADMINISTRATIVE RULES. CHAPTER 340
MOTOR VEHICLE EMISSION CONTROL INSPECTION TEST
CRITERIA, METHODS, AND STANDARDS

OAR 340-24-320(3). No vehicle emission control test for 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). The 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 convertor system - (1975 and newer model vehicles only)
(c) Exhaust gas recircula tion (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 control devicews
  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

OAR 340-24-320

(6) For the purposes of these rules, [a motor vehicle with an exchange engine] the following applies for motor vehicles with exchange engines:

(a) 1974 and earlier motor vehicles shall be classified by the model year and manufacturer make of the exchange engine, except that any requiremen ts for evaporative control shall be based on the model year of the vehicle chassis.
(b) 1975 and later motor vehicles shall be classified by the model year and manufacuturer of the vehicle as designated by the original engine family certification package.
(c) A 1975 and later motor vehicle shall be classified by the year and make of exchange engine if the exchange engine was installed prior to January 1, 1980.

[(7) Electric vehicles are presumed to comply with all requirements of these rules and those applicable provisions of ORS 468.360 to 468.405, 481.190 to 481.200, and 483.800 to 483.825,(1) and may be issued the required certificates of compliance and inspection at no charge.]

OAR 340-24-325

(6) For the purposes of these rules, [a motor vehicle with an exchange engine] the following applies for motor vehicles with exchange engines:

(a) 1974 and earlier motor vehicles shall be classified by the model year and manufacturer make of the exchange engine, except that any requirement for evaporative control shall be based on the model year of the vehicle chassis.

(b) 1975 and later motor vehicles shall be classified by the model year and manufacturer of the vehicle as designated by the original engine family certification package.

(c) A]975 and later motor vehicle shall be classified by the year and make of exchange engine if the exchange engine was installed prior to January 1, 1980.

OAR 340-24-340

(3) Each license shall be valid [for 12 months following the end of the month of issuance] through December 31 of each year unless revoked, suspended, or returned to the Department.

OAR 340-24-350

(3) Each license issued for an exhaust gas analyzer shall be valid [for 12 months following the end of the month issuance] through December 31 of each year, unless returned to the Department or revoked.

VN8297.6

APPENDIX B

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
of the State of Oregon

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

The Environmental Quality Commission intends to adopt the motor vehicle inspection program rule amendments, OAR Chapter 340 Section 24-300 to 24-350.

A. Legal Authority ORS 468.370 and ORS 183.341

B. Need for Rule

The proposed amendments are needed to simplify bookkeeping procedures for fleet operations by having all licenses expire simultaneously; and eliminate references to electric cars which are now legislatively exempt from the inspection program; and to require, after January 1, 1980, that vehicles meet emission standards based on the original engine certification package.

C. Documents Relied Upon

The existing rules. No other external documents, as of this date.

DEPARTMENT OF ENVIRONMENTAL QUALITY

By: William P. Jasper
Date: October 31, 1979

VN8413

VICTOR ATIYEH
GOVERNOR

Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

MAILING ADDRESS: P.O. BOX 1760, PORTLAND, OREGON 97207

****
* NOTICE OF PUBLIC HEARING *
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Distributed: 10/17/79
Hearing: 12/06/79

A CHANCE TO BE HEARD ABOUT

Modifications and Housekeeping Rule Amendments to Inspection Program Rules for Motor Vehicle Emission Inspection

The Department of Environmental Quality is proposing modifications to the current inspection program rules. The proposed modifications to the regulations to cover the area of fleet licensing and a clarification of the inspection program policy on engine changes.

What is DEQ Proposing?

Interested parties should request a copy of the complete proposed rule package. The major aspects of the proposed modification are: (1) the changing of all licensing dates for licensed fleet self inspection programs so that renewals will run on the calendar year basis, as opposed to being interspersed throughout the year; (2) a clarification of the Department policy on engine changes so that vehicles with emission control equipment from 1980 forward will be required to maintain the original engine certification package. Such provision will not apply to vehicles whose engine changes have taken place prior to January 1, 1980; and (3) the elimination of references to electric cars.

Who is Effected by this Proposal?

Motor vehicle owners and operators and people engaged in the business of repairing motor vehicles in the Portland Metropolitan Area will be effected by this proposal.

How to Provide Your Information?

Written comments should be sent to the Department of Environmental Quality, Vehicle Inspection Program, Box 1760, Portland, Oregon 97207, and should be received by 5:00 p.m., December 6, 1979. Oral and written comments may be offered at the following public hearing:

City:	Portland
Time:	1:00 p.m.
Date:	December 6, 1979
Location:	The Fish and Wildlife Commission Room 506 Southwest Mill Street Portland

Where to Obtain Additional Information:

Copies of the rules may be obtained from Mr. William Jasper, Department of Environmental Quality, Vehicle Inspection Program, 522 Southwest Fifth Avenue, Box 1760, Portland, Oregon 97207, (503) 229-6235.

Legal References for this Proposal:

This proposal amends OAR 340-24-300 through 350, this rule is proposed under the authority of ORS 468.370. This proposal does not effect land use.

Need for Rule:

The proposed rule amendments are needed to 1) simplify bookkeeping procedures for fleet operations by having all licenses expire simultaneously, 2) require after January 1, 1980, that vehicles meet emission standards based on the original engine certification package, (rather than allow an engine change to an older engine,) and thus ensure consistent application of emission criteria, and 3) eliminate references to electric cars which are now legislatively exempt from the inspection program.

Fiscal Impact:

The estimated fiscal impacts are that 1) Fleet operators should have a savings from the proposed change in licensing procedures. 2) The great majority of motor vehicle owners will not be affected. The few that are affected may experience a savings or incur increased costs in maintaining their vehicles to the vehicle's origional emission certification level. 3) there is no fiscal impact for electric vehicle owners.

Further Proceedings:

After public hearing, the Environmental Quality Commission may adopt the rule identical to the proposed rules, adopted a modified rule 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's Clean Air Act Implementation Plan. The Commission's deliberation should come in late January, as part of the agenda of a regularly scheduled Commission meeting.

W
VO2307

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. E, November 16, 1979, EQC Meeting

Request for Authorization to Conduct a Public Hearing on Proposed Amendments to Noise Control Regulations for the Sale of New Passenger Cars and Light Trucks, OAR 340-35-025.

Background

Oregon Revised Statutes chapter 467 directs the Environmental Quality Commission to establish maximum permissible levels of noise emission for categories of motor vehicles. In the fall of 1973, the Department proposed rules to establish maximum permissible noise emission standards for passenger cars and light trucks. Public hearings were held, and at the July 19, 1974, EQC meeting, standards were adopted.

The standards for light duty vehicles (automobiles and light trucks) initially were set at a maximum level of 83 decibels for the 1975 model year, were reduced to 80 decibels for 1976 models, and reached the final standard of 75 decibels for 1979 models.

In 1976, and again 1978, the Commission was petitioned by General Motors Corporation (GM) to rescind the 75 decibel standard. The justification for GM's proposal was:

a) The 75 decibel emission standard would not significantly reduce ambient noise levels;

b) The cost of compliance would cause an adverse economic impact; and

c) A Federal EPA standard may be adopted that would preempt State and local regulations.

The 1976 petition resulted in a two-year delay in the 75 decibel standard and the 1978 petition resulted in an additional one-year delay. Therefore the present scheduled implementation date is for 1982 models.

Problem

Recently the Department has received letters from GM and Ford Motor Company outlining concerns over the 75 decibel standard for light duty vehicles.

GM noted that it must comply with fuel economy, exhaust emission, and safety

standards, and in some cases noise emission standards are counter-productive to fuel economy. GM's analysis of the 75 decibel standard indicates that its imposition would not result in a perceptible environmental improvement, and could compromise fuel economy. GM concluded that it would not design to meet the 75 decibel standard but would withhold from sale those non-complying vehicles. An estimate indicates 58 percent of the GM passenger cars and 72 percent of its light trucks would not be saleable under the 75 decibel limit.

Ford Motor Company also noted various federal regulations that have required redesign of its vehicles. Ford believes that further reduction of light duty vehicle noise levels would be counter-productive to other national priorities, and analysis indicates that the 75 decibel standard would have an incremental reduction in community noise levels of less than 0.1 decibels per year. Ford estimated that about 60-65 percent of its passenger cars and 80-85 percent of its light trucks would not be saleable under the scheduled 75 decibel limit.

The test procedure by which vehicle manufacturers demonstrate compliance with Oregon standards has recently come under scrutiny. Although Ford believes the present procedure is adequate, GM is dissatisfied, and has proposed an alternate technique. EPA is presently testing a methodology which it believes is reflective of typical operations of light vehicles. EPA believes the new procedure will be adopted by early 1980.

Alternatives and Evaluation

Although no formal petition for rule amendment has been submitted, it is clear that General Motors and Ford desire administrative relief from the 75 decibel standard scheduled for model year 1982. Engineering for these models is nearly complete, so without a rule amendment some models can not be offered for sale in Oregon.

As no formal request for specific rule amendments have been proposed, the Department believes the hearing record should contain material on as many alternatives as possible. Therefore, the following options will be provided for consideration during the public hearings process.

Option 1 would retain the scheduled 75 decibel limit due for implementation in model year 1982. This option could result in the curtailment of some models in the Oregon new light duty vehicle market.

Option 2 would rescind the 75 decibel standard and continue with the present 80 decibel standard. As the present new vehicle fleet emission level is substantially below 80 decibels, nothing would prevent an increase up to the 80 decibel limit.

Option 3 would extend the 75 decibel implementation date until 1984, a two-year delay. This amendment option has been used on past occasions but is not a long term solution to the problem.

Option 4 would place a limit on any increase to the corporation's average noise emissions over the base year of 1980. Thus, if the 80 decibel limit is retained and the 75 decibel limit is rescinded as provided under Option 2, degradation of present noise control technology would not be permitted.

Option 5 would retain the 80 decibel standard and require manufacturers to provide noise emissions data using the new EPA light vehicle noise test procedure. After an evaluation period, staff would make recommendations to the Commission on the need for regulations using the EPA test procedure instead of the present "wide-open-throttle" procedure.

Summation

Based upon the background and alternatives the following conclusions are offered:

1. Noise emission standards for new light duty motor vehicles (autos and light trucks) were adopted in 1974 with a final regulatory limit of 75 decibels to be met by model year 1979. Petitions in 1976 and 1978 resulted in a delay of the 75 decibel standard to model year 1982.

2. Recent notice from General Motors Corporation and Ford Motor Company indicates they may not be willing to attempt to comply with the 75 decibel standard. They believe the environmental benefit to be gained is not justified due to various factors including impacts caused by exhaust emission standards, fuel economy standards and safety standards.

3. The Department is not proposing a single recommended amendment, but proposes that several options be considered for rule amendments to provide the manufacturers and other interested parties an opportunity to comment.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission authorize a public hearing to take testimony on amendments to Noise Control Regulations for the Sale of New Motor Vehicles, OAR 340-35-025.

Bill

WILLIAM H. YOUNG

John Hector/pw
October 30, 1979
229-5989

Attachments

1. Draft Hearings Notice
2. Proposed Amendments to OAR 340-35-025

Attachment 1
Agenda Item E
November 16, 1979
EQC Meeting

Draft Hearings Notice

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* NOTICE OF PUBLIC HEARING *
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DEQ AUTHORIZES TESTIMONY ON NEED TO RELAX NEW CAR AND LIGHT TRUCK NOISE STANDARDS. The Oregon Department of Environmental Quality (DEQ) has scheduled a public hearing to consider testimony on proposals that may relax the 75 decibel standard for passenger cars and light trucks scheduled to become effective in model year 1982. A hearing on this matter will be held .....

WHAT IS DEQ PROPOSING?

General Motors Corporation and Ford Motor Company have notified DEQ that they may not attempt to comply with the 1982 model year noise standard of 75 decibels.

DEQ is not recommending one proposed amendment to the existing rules, but is proposing that testimony be taken on several proposed alternatives. These options are listed below:

Option 1. Do nothing. Retain the existing 75 decibel standard to be met by model year 1982.

Option 2. Rescind the existing 75 decibel standard and maintain the present 80 decibel limit into the future.

Option 3. Extend the implementation date of the 75 decibel standard from model year 1982 to 1984.

Option 4. Place a limitation on any increase over the average noise emissions of the vehicles for each corporation above the base year of 1980 in addition

to a specified maximum noise emission standard. New corporations would use first Oregon sales year as the base year.

Option 5. Require manufacturers to submit noise emission test data using the new EPA light vehicle noise test procedure, in addition to retaining the 80 decibel limit using the current wide-open-throttle test procedure. After an evaluation period, DEQ would make recommendations as to the need for adopting the new test procedure and appropriate noise emission limits.

WHO IS AFFECTED BY THIS PROPOSAL?

The public is impacted by motor vehicle noise, the Oregon motor vehicle dealers are concerned that new vehicles are available for sale in Oregon and the manufacturers must build vehicles complying with noise emission limits. The adoption of one of the proposed options may have the following effect:

Option 1. The public may be protected against increased vehicle noise the Oregon dealers may not have all models available for Oregon buyers and manufacturers may either withhold non-complying vehicles from Oregon or design and construct noise reduction into non-complying models. Adoption of this option may cause a minor adverse economic impact on dealers and purchasors.

Option 2. The public may be subjected to higher noise levels, the dealers and manufacturers would maintain the present status. No economic impact would result.

Option 3. Noise reduction would be delayed. The dealers and manufacturers would maintain the present status until model year 1984. No economic impact would result.

Option 4. The public would be protected against any increased noise emissions. Dealers would probably receive a full complement of models for Oregon sales and manufacturers would have the added burden of ensuring that average noise emissions did not increase. A minimal adverse economic impact to the manufacturers may result.

Option 5. The manufacturers would be required to perform additional certification testing and data must be transmitted to DEQ. A minimal adverse economic impact to the manufacturers may result.

HOW TO SUBMIT YOUR INFORMATION

Written comments should be sent to the Department of Environmental Quality, Noise Control Section, PO Box 1760, Portland, OR 97207 and should be received by .....

Oral and written comments may be offered at the following public hearing:

WHERE TO OBTAIN ADDITIONAL INFORMATION

Copies of the proposed amendments may be obtained from:

Department of Environmental Quality
Noise Control Section
PO Box 1760
Portland, OR 97207

PRINCIPLE DOCUMENTS RELIED UPON IN THE RULEMAKING

a) Letter to the Department from General Motors Corporation dated July 9, 1979.

b) Letter to the Department from Ford Motor Company dated July 25, 1979.

The above documents may be reviewed at the Department's offices at 522 SW Fifth Ave., Portland, OR.

NEED FOR THE RULE

Motor vehicles cause noise impacts detrimental to the public health, safety or welfare. Motor vehicle manufacturers indicate an unwillingness to comply with the 1982 model year standards for various reasons. Amendments to the 1982 model year standard may be necessary.

LEGAL REFERENCES FOR THIS PROPOSAL

This proposal may amend OAR 340-35-025 under authority of ORS 467.010 et seq.

This proposal does not appear to conflict with Land Use Goals. Public comment on any land use issue involved is welcome and may be submitted in the same fashions as are indicated for testimony in this Public Notice of Hearing.

It is requested that local, state and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and with Statewide Planning Goals within their expertise and jurisdiction.

The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any apparent conflicts brought to our attention by local, state or federal authorities.

After public hearing, the Commission may adopt a rule identical to one of the proposed actions, adopt a modified rule on the same subject matter, or decline to act. The Commission's deliberation should come late in February or March 1980 as part of the agenda of a regularly scheduled Commission meeting.

35-025 NOISE CONTROL REGULATIONS FOR THE SALE OF NEW MOTOR VEHICLES

(1) Standards and Regulations. No person shall sell or offer for sale any new motor vehicle designated in this section which produces a propulsion noise exceeding the noise limits specified in Table A, except as otherwise provided in these rules.

(2) Measurement:

(a) Sound measurements shall conform to test procedures adopted by the Commission in Motor Vehicle Sound Measurement Procedures Manual (NPCS-21), or to standard methods approved in writing by the Department. These measurements will generally be carried out by the motor vehicle manufacturer on a sample of either prototype or production vehicles. A certification program shall be devised by the manufacturer and submitted to the Department for approval within 60 days after the adoption of this rule.

(b) Nothing in this section shall preclude the Department from conducting separate or additional noise level tests and measurements on new motor vehicles being offered for sale. Therefore, when requested by the Department, a new motor vehicle dealer or manufacturer shall cooperate in reasonable noise testing of a specific class of motor vehicle being offered for sale.

(3) Manufacturer's Certification:

(a) Prior to the sale or offer for sale of any new motor vehicle designated in Table A, the manufacturer or a designated representative shall certify in writing to the Department that vehicles listed in Table A made by that manufacturer and offered for sale in the State of Oregon meet applicable noise limits. Such certification will include a statement by the manufacturer that:

(A) The manufacturer has tested sample or prototype vehicles.

(B) That such samples or prototypes met applicable noise limits when tested in accordance with the procedures specified.

(C) That vehicles offered for sale in Oregon are substantially identical in construction to such samples or prototypes.

(b) Nothing in this section shall preclude the Department from obtaining specific noise measurement data gathered by the manufacturer on prototype or production vehicles for a class of vehicles for which the Department has reasonable grounds to believe is not in conformity with the applicable noise limits.

(4) Exceptions. Upon prior written request from the manufacturer or designated representative, the Department may authorize an exception to this noise rule for a class of motor vehicles, if it can be demonstrated to the Department that for that specific class a vehicle manufacturer has not had adequate lead-time or does not have the technical capability to either bring the motor vehicle noise into compliance or to conduct new motor vehicle noise tests.

(5) Exemptions:

(a) All racing vehicles, except racing motorcycles, shall be exempt from the requirements of this section provided that such vehicles are operated only at facilities used for sanctioned racing events.

(b) Racing motorcycles shall be exempt from the requirements of this section provided that such vehicles are operated only at facilities used for sanctioned racing events, and the following conditions are complied with:

(A) Prior to the sale of a racing motorcycle, the prospective purchaser shall file a notarized affidavit with the Department, on a Departmentally approved form, stating that it is the intention of such prospective purchaser to operate the vehicle only at facilities used for sanctioned racing events; and

(B) No racing vehicle shall be displayed for sale in the State of Oregon without notice prominently affixed thereto:

(i) that such vehicle will be exempt from the requirements of this section only upon demonstration to the Department that the vehicle will be operated only at facilities used for sanctioned racing events, and

(ii) that a notarized affidavit will be required of the prospective purchaser stating that it is the intention of such prospective purchaser to operate the vehicle only at facilities used for sanctioned racing events; and

(C) No racing vehicle shall be locally advertised in the State of Oregon as being for sale without notice included:

(i) which is substantially similar to that required in (B)(i) and (B)(ii) above, and

(ii) which is unambiguous as to which vehicle such notice applies.

TABLE A

New Motor Vehicle Standards

Moving Test At 50 Feet (15.2 meters)

Vehicle Type	Effective For	Maximum Noise Level, dBA
Motorcycles	1975 Model	86
	1976 Model	83
	1977-1982 Models	81
	1983-1987 Models	78
	Models after 1987	75
Snowmobiles as defined in ORS 481.048	1975 Model	82
	Models after 1975	78
Truck in excess of 10,000 pounds (4536 kg) GVWR	1975 Model	86
	1976-1981 Models or Models manufactured after Jan. 1, 1978 and before Jan. 1, 1982	83
	Models manufactured after Jan. 1, 1982 and before Jan. 1, 1985	80
	Models manufactured after Jan. 1, 1985	(Reserved)
Automobiles, light trucks, and all other road vehicles	1975 Model	83
	1976-1981 Models	80
	Models after 1981	75
Bus as defined under ORS 481.030	1975 Model	86
	1976-1978 Models	83
	Models after 1978	80

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(2) Measurement:

(a) Sound measurements shall conform to test procedures adopted by the Commission in Motor Vehicle Sound Measurement Procedures Manual (NPCS-21), or to standard methods approved in writing by the Department. These measurements will generally be carried out by the motor vehicle manufacturer on a sample of either prototype or production vehicles. A certification program shall be devised by the manufacturer and submitted to the Department for approval within 60 days after the adoption of this rule.

(b) Nothing in this section shall preclude the Department from conducting separate or additional noise level tests and measurements on new motor vehicles being offered for sale. Therefore, when requested by the Department, a new motor vehicle dealer or manufacturer shall cooperate in reasonable noise testing of a specific class of motor vehicle being offered for sale.

(3) Manufacturer's Certification:

(a) Prior to the sale or offer for sale of any new motor vehicle designated in Table A, the manufacturer or a designated representative shall certify in writing to the Department that vehicles listed in Table A made by that manufacturer and offered for sale in the State of Oregon meet applicable noise limits. Such certification will include a statement by the manufacturer that:

(A) The manufacturer has tested sample or prototype vehicles.

(B) That such samples or prototypes met applicable noise limits when tested in accordance with the procedures specified.

(C) That vehicles offered for sale in Oregon are substantially identical in construction to such samples or prototypes.

(b) Nothing in this section shall preclude the Department from obtaining specific noise measurement data gathered by the manufacturer on prototype or production vehicles for a class of vehicles for which the Department has reasonable grounds to believe is not in conformity with the applicable noise limits.

(4) Exceptions. Upon prior written request from the manufacturer or designated representative, the Department may authorize an exception to this noise rule for a class of motor vehicles, if it can be demonstrated to the Department that for that specific class a vehicle manufacturer has not had adequate lead-time or does not have the technical capability to either bring the motor vehicle noise into compliance or to conduct new motor vehicle noise tests.

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(B) No racing vehicle shall be displayed for sale in the State of Oregon without notice prominently affixed thereto:

(i) that such vehicle will be exempt from the requirements of this section only upon demonstration to the Department that the vehicle will be operated only at facilities used for sanctioned racing events, and

(ii) that a notarized affidavit will be required of the prospective purchaser stating that it is the intention of such prospective purchaser to operate the vehicle only at facilities used for sanctioned racing events; and

(C) No racing vehicle shall be locally advertised in the State of Oregon as being for sale without notice included:

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	Models manufactured after Jan. 1, 1982 and before Jan. 1, 1985	80
	Models manufactured after Jan. 1, 1985	(Reserved)
Automobiles, light trucks, and all other road vehicles	1975 Model	83
	[1976-1981 Models] Models after 1975	80
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Bus as defined under ORS 481.030	1975 Model	86
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35-025 NOISE CONTROL REGULATIONS FOR THE SALE OF NEW MOTOR VEHICLES

(1) Standards and Regulations. No person shall sell or offer for sale any new motor vehicle designated in this section which produces a propulsion noise exceeding the noise limits specified in Table A, except as otherwise provided in these rules.

(2) Measurement:

(a) Sound measurements shall conform to test procedures adopted by the Commission in Motor Vehicle Sound Measurement Procedures Manual (NPCS-21), or to standard methods approved in writing by the Department. These measurements will generally be carried out by the motor vehicle manufacturer on a sample of either prototype or production vehicles. A certification program shall be devised by the manufacturer and submitted to the Department for approval within 60 days after the adoption of this rule.

(b) Nothing in this section shall preclude the Department from conducting separate or additional noise level tests and measurements on new motor vehicles being offered for sale. Therefore, when requested by the Department, a new motor vehicle dealer or manufacturer shall cooperate in reasonable noise testing of a specific class of motor vehicle being offered for sale.

(3) Manufacturer's Certification:

(a) Prior to the sale or offer for sale of any new motor vehicle designated in Table A, the manufacturer or a designated representative shall certify in writing to the Department that vehicles listed in Table A made by that manufacturer and offered for sale in the State of Oregon meet applicable noise limits. Such certification will include a statement by the manufacturer that:

(A) The manufacturer has tested sample or prototype vehicles.

(B) That such samples or prototypes met applicable noise limits when tested in accordance with the procedures specified.

(C) That vehicles offered for sale in Oregon are substantially identical in construction to such samples or prototypes.

(b) Nothing in this section shall preclude the Department from obtaining specific noise measurement data gathered by the manufacturer on prototype or production vehicles for a class of vehicles for which the Department has reasonable grounds to believe is not in conformity with the applicable noise limits.

(4) Exceptions. Upon prior written request from the manufacturer or designated representative, the Department may authorize an exception to this noise rule for a class of motor vehicles, if it can be demonstrated to the Department that for that specific class a vehicle manufacturer has not had adequate lead-time or does not have the technical capability to either bring the motor vehicle noise into compliance or to conduct new motor vehicle noise tests.

(5) Exemptions:

(a) All racing vehicles, except racing motorcycles, shall be exempt from the requirements of this section provided that such vehicles are operated only at facilities used for sanctioned racing events.

(b) Racing motorcycles shall be exempt from the requirements of this section provided that such vehicles are operated only at facilities used for sanctioned racing events, and the following conditions are complied with:

(A) Prior to the sale of a racing motorcycle, the prospective purchaser shall file a notarized affidavit with the Department, on a Departmentally approved form, stating that it is the intention of such prospective purchaser to operate the vehicle only at facilities used for sanctioned racing events; and

(B) No racing vehicle shall be displayed for sale in the State of Oregon without notice prominently affixed thereto:

(i) that such vehicle will be exempt from the requirements of this section only upon demonstration to the Department that the vehicle will be operated only at facilities used for sanctioned racing events, and

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Automobiles, light trucks, and all other road vehicles	1975 Model	83
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Bus as defined under ORS 481.030	1975 Model	86
	1976-1978 Models	83
	Models after 1978	80

35-025 NOISE CONTROL REGULATIONS FOR THE SALE OF NEW MOTOR VEHICLES

(1) Standards and Regulations:

(a) No person shall sell or offer for sale any new motor vehicle designated in this section which produces a propulsion noise exceeding the noise limits specified in Table A, except as otherwise provided in these rules.

(b) No person shall sell or offer for sale any automobile or light truck not exceeding 10,000 pounds (4536 Kg) Gross Vehicle Weight Rating if that vehicle increases the manufacturing corporation's annual average motor vehicle noise emission level above the corporation's annual average motor vehicle noise emission level for 1980 model vehicles, or the model year for which that corporation first offered motor vehicles for sale in Oregon, whichever is later.

(2) Measurement:

(a) Sound measurements shall conform to test procedures adopted by the Commission in Motor Vehicle Sound Measurement Procedures Manual (NPCS-21), or to standard methods approved in writing by the Department. These measurements will generally be carried out by the motor vehicle manufacturer on a sample of either prototype or production vehicles. A certification program shall be devised by the manufacturer and submitted to the Department for approval within 60 days after the adoption of this rule.

(b) Nothing in this section shall preclude the Department from conducting separate or additional noise level tests and measurements on new motor vehicles being o-fered for sale. Therefore, when requested by the Department, a new motor vehicle dealer or manufacturer shall cooperate in reasonable noise testing of a specific class of motor vehicle being offered for sale.

(3) Manufacturer's Certification:

(a) Prior to the sale or offer for sale of any new motor vehicle designated in Table A, the manufacturer or a designated representative shall certify in writing to the Department that vehicles listed in Table A made by that manufacturer and offered for sale in the State of Oregon meet applicable noise limits. Such certification will include a statement by the manufacturer that:

(A) The manufacturer has tested sample or prototype vehicles.

(B) That such samples or prototypes met applicable noise limits when tested in accordance with the procedures specified.

(C) That vehicles offered for sale in Oregon are substantially identical in construction to such samples or prototypes.

(b) Nothing in this section shall preclude the Department from obtaining specific noise measurement data gathered by the manufacturer on prototype or production vehicles for a class of vehicles for which the Department has reasonable grounds to believe is not in conformity with the applicable noise limits.

(4) Exceptions. Upon prior written request from the manufacturer or designated representative, the Department may authorize an exception to this noise rule for a class of motor vehicles, if it can be demonstrated to the Department that for that specific class a vehicle manufacturer has not had adequate lead-time or does not have the technical capability to either bring the motor vehicle noise into compliance or to conduct new motor vehicle noise tests.

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(B) No racing vehicle shall be displayed for sale in the State of Oregon without notice prominently affixed thereto:

(i) That such vehicle will be exempt from the requirements of this section only upon demonstration to the Department that the vehicle will be operated only at facilities used for sanctioned racing events, and

(ii) That a notarized affidavit will be required of the prospective purchaser stating that it is the intention of such prospective purchaser to operate the vehicle only at facilities used for sanctioned racing events; and

(C) No racing vehicle shall be locally advertised in the State of Oregon as being for sale without notice included:

(i) Which is substantially similar to that required in (B)(i) and (B)(ii) above, and

(ii) Which is unambiguous as to which vehicle such notice applies.

TABLE A

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	Models manufactured after Jan. 1, 1985	(Reserved)
Automobiles, light trucks, and all other road vehicles	1975 Model	83
	[1976-1981 Models]Models after 1975	80
	[Models after 1981]	[75]
Bus as defined under ORS 481.030	1975 Model	86
	1976-1978 Models	83
	Models after 1978	80

(1) Standards and Regulations:

(a) No person shall sell or offer for sale any new motor vehicle designated in this section which produces a propulsion noise exceeding the noise limits specified in Table A, except as otherwise provided in these rules.

(b) Subsequent to the adoption of a Federal Environmental Protection Agency procedure to determine sound levels of passenger cars and light trucks, no person shall sell or offer for sale any automobile or light truck not exceeding 10,000 pounds (4536 Kg) Gross Vehicle Weight Rating, unless the manufacturer or designated representative has submitted noise emission data of samples or prototypes of all vehicle models to be offered in Oregon using the adopted EPA procedure.

(c) The Department shall, after evaluation of two model years of noise emission data required under subsection (1)(b), make recommendations to the Commission on the adequacy of the procedure and the necessity of amendments to this rule for incorporation of the EPA procedure.

(2) Measurement:

(a) Sound measurements shall conform to test procedures adopted by the Commission in Motor Vehicle Sound Measurement Procedures Manual (NPCS-21), or to standard methods approved in writing by the Department. These measurements will generally be carried out by the motor vehicle manufacturer on a sample of either prototytpe or production vehicles. A certification program shall be devised by the manufacturer and submitted to the Department for approval within 60 days after adoption of this rule.

(b) Nothing in this section shall preclude the Department from conducting separate or additional noise level tests and measurements on new motor vehicles being offered for sale. Therefore, when requested by the Department, a new motor vehicle dealer or manufacturer shall cooperate in reasonable noise testing of a specific class of motor vehicle being offered for sale.

(3) Manufacturer's Certification:

(a) Prior to the sale or offer for sale of any new motor vehicle designated in Table A, the manufacturer or a designated representative shall certify in writing to the Department that vehicles listed in Table A made by that manufacturer and offered for sale in the State of Oregon meet applicable noise limits. Such certification will include a statement by the manufacturer that:

(A) The manufacturer has tested sample or prototype vehicles.

(B) That such samples or prototytpes met applicable noise limits when tested in accordance with the procedures specified.

(C) That vehicles offered for sale in Oregon are substantially identical in construction to such samples or prototypes.

(b) Nothing in this section shall preclude the Department from obtaining specific noise measurement data gathered by the manufacturer on prototype or production vehicles for a class of vehicles for which the Department has reasonable grounds to believe is not in conformity with the applicable noise limits.

(4) Exceptions. Upon prior written request from the manufacturer or designated representative, the Department may authorize an exception to this noise rule for

a class of motor vehicles, if it can be demonstrated to the Department that for that specific class a vehicle manufacturer has not had adequate lead-time or does not have the technical capability to either bring the motor vehicle noise into compliance or to conduct new motor vehicle noise tests.

(5) Exemptions:

(a) All racing vehicles, except racing motorcycles, shall be exempt from the requirements of this section provided that such vehicles are operated only at facilities used for sanctioned racing events.

(b) Racing motorcycles shall be exempt from the requirements of this section provided that such vehicles are operated only at facilities used for sanctioned racing events, and the following conditions are complied with:

(A) Prior to the sale of a racing motorcycle, the prospective purchaser shall file a notarized affidavit with the Department, on a Departmentally approved form, stating that it is the intention of such prospective purchaser to operate the vehicle only at facilities used for sanctioned racing events; and

(B) No racing vehicle shall be displayed for sale in the State of Oregon without notice prominently affixed thereto:

(i) That such vehicle will be exempt from the requirements of this section only upon demonstration to the Department that the vehicle will be operated only at facilities used for sanctioned racing events, and

(ii) That a notarized affidavit will be required of the prospective purchaser stating that it is the intention of such prospective purchaser to operate the vehicle only at facilities used for sanctioned racing events; and

(C) No racing vehicle shall be locally advertised in the State of Oregon as being for sale without notice included:

(i) Which is substantially similar to that required in (B)(i) and (B)(ii) above, and

(ii) Which is unambiguous as to which vehicle such notice applies.

TABLE A

New Motor Vehicle Standards

Moving Test At 50 Feet (15.2 meters)

Vehicle Type	Effective For	Maximum Noise Level, dBA
Motorcycles	1975 Model	86
	1976 Model	83
	1977-1982 Models	81
	1983-1987 Models	78
	Models after 1987	75
Snowmobiles as defined in ORS 481.048	1975 Model	82
	Models after 1975	78
Truck in excess of 10,000 pounds (4536 kg) GVWR	1975 Model	86
	1976-1981 Models or Models manufactured after Jan. 1, 1978 and before Jan. 1, 1982	83
	Models manufactured after Jan. 1, 1982 and before Jan. 1, 1985	80
	Models manufactured after Jan. 1, 1985	(Reserved)
Automobiles, light trucks, and all other road vehicles	1975 Model	83
	[1976-1981 Models]Models after 1975	80
	[Models after 1981]	[75]
Bus as defined under ORS 481.030	1975 Model	86
	1976-1978 Models	83
	Models after 1978	80

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 F, November 16, 1979, EQC Meeting
Field Burning Regulations and Amendment to the Oregon State Implementation Plan, Proposed Permanent Rule Revision to Agricultural Burning Rules, OAR Chapter 340, Section 26-005 Through 26-030 - Request for Public Hearing

Background

The 1979 Oregon Legislative Assembly revised the law regulating open field burning in the Willamette Valley. The new law, scheduled to take effect January 1, 1980, contains several changes from existing field burning statutes. Principle among these are the following.

1. An upper limit on annual field burning is established at 250,000 acres. Alteration of this limit by the Commission is no longer allowed except if economically feasible alternatives are developed.

2. Regulation of acreage actually burned is to be accomplished through daily smoke management.

3. Field burning is also to be regulated such that it does not significantly contribute to violations of State and Federal air quality standards.

Because of these and other changes contained in the new law, several revisions to the Oregon Administrative Rules regulating field burning are proposed which must in turn be reflected in Oregon's State Implementation Plan.

In addition to changes in statute, the Commission received at its special August 6, 1979, meeting additional suggestions from the City of Eugene regarding field burning rule revisions. Though other rule changes were proposed and eventually adopted, perhaps the most significant of the proposed changes was a specific "performance standard" to be effected after the 1979 season, and designed to limit seasonal smoke intrusion into the cities of Eugene and Springfield. At that meeting, the Commission agreed to assess the performance of the 1979 field burning smoke management program against the proposed standard, hopefully to better judge both the standard's practicality as a regulatory tool and, if appropriate, the best form for its implementation.

Other rule revisions actually adopted at the August 6 meeting as temporary have since been adopted as permanent at the August 31 and September 21, 1979, EQC meetings and submitted to the Environmental Protection Agency (EPA) as revisions to the State Implementation Plan (SIP). The EPA is currently reviewing this SIP package which supports a 180,000 acre annual limitation on burning. Five separate rule revision packages submitted by the Department since December, 1978, as well as technical support and evidence of public participation during development of the SIP revision complete this SIP package for field burning. Because this "180,000 acre" revision is still being processed, the EPA is not yet ready to discuss the technical aspects of any additional changes such as those proposed in this report; however, an early 1980 submittal of any SIP revision is requested by the EPA to insure processing prior to the 1980 season.

In preparing the proposed rule revisions, the staff has met with representatives of the City of Eugene and the Oregon Seed Council and discussed the changes. From this process came not only candid discussion on the best application of the performance standard but also a concensus that some simplification of the field burning rules was in order. In particular it was expressed that lengthy, detailed rules regarding approval of alternative methods were unnecessary considering the very limited use given those regulations to date.

A "Statement of Need for Rulemaking" is attached (Attachment I). The Environmental Quality Commission's (EQC) authority to regulate field burning is established in the following Oregon Revised Statutes (ORS):

1. ORS 468.450 allowing the Commission to establish a schedule to identify the extent and type of burning to be allowed on each "marginal" day; and

2. ORS 468.460 authorizing the Commission to promulgate rules controlling Willamette Valley field burning.

In addition ORS 468.460(3) requires the EQC to consult with Oregon State University prior to such promulgation.

Alternatives and Evaluation

The rule revisions in Attachment II are proposed to:

1. Incorporate changes made necessary by Senate Bill 472;

2. Make operational a "performance standard" similar to that proposed by the City of Eugene at the August 6 EQC meeting; and

3. Make other changes to shorten and clarify the rules regulating field burning.

It is also necessary, of course, that the completed rules and supporting technical analysis together form an approvable SIP revision. Adoption of these rules in January, 1980, should allow the EPA adequate time for review of the proposed SIP revision and any corrective rule revisions deemed necessary.

Rule Revisions Proposed to Address New Field Burning Legislation

Senate Bill 472 revises ORS 468.475 and removes the Commission's authority to adjust annual acreage limitations on field burning (except when reasonable and economically feasible alternatives are developed) by establishing a flat 250,000 acre limitation. Besides raising the annual limitation by 70,000 acres, the new law does not allow limitation of the annual acreage as a mechanism for regulating smoke problems in a given year. The smoke management staff has never considered the annual acreage limit a significant factor in daily decision making

A much more effective control than the general application of an annual acreage limitation is through regulation of the limit based upon program performance such as is incorporated in the current "nephelometer" rule. However, in addition to the unalterable annual acreage amount the Bill requires smoke management decisions to be made on a daily judgment. This revision may not allow the manipulation of absolute acreage limitations as allowed by the current rule.

To address these changes, revisions are proposed to OAR 26-013 to change the current 180,000 acre limit to that amount authorized under prevailing State and Federal law and to eliminate those subsections which provide for reduction of the annual acreage limit based upon nephelometer-measured smoke intrusions.

Rule Revisions Proposed to Incorporate a "Performance Standard" Control Mechanism

The proposed performance standard is analagous to the current "nephelometer" rule in that it would provide an operational constraint for inadequate performance which could be immediately implemented for the remainder of the season. However, instead of reducing the number of acres to be burned in the remainder of the year, the atmospheric conditions under which additional acreage could be burned would be made more stringent. Though both the current "nephelometer" rule and the proposed performance standard rules contain the critical feedback mechanism which allows for an immediate reduction in the potential severity of future intrusions, staff believes the limiting of burning to better and better atmospheric conditions to be a more reliable method for assuring such reductions.

Specifically, the proposed rules would, after 15 hours of smoke intrusion due to field burning, require a minimum atmospheric mixing height of 4000 feet before significant additional burning could be allowed. Should smoke intrusions occur such that 20 cumulative hours of intrusion are recorded, the minimum allowable

mixing height for burning is increased to 4500 feet. Finally, if 25 hours are recorded, the minimum mixing height is set at 5500 feet.

The proposed rules further provide that hours of intrusion accumulate whenever the nephelometer reading exceeds the previous background levels by a value of 1.8×10^{-4} b-scat. The eventual "hours of intrusion" will be based upon the average of the hours as measured at Eugene and Springfield sites. Hours of heavy intrusion (b-scat $\geq$ 5.0 above background) will be counted double.

The proposed performance standard provides protection for the Eugene-Springfield area by causing burning to be regulated according to the two most significant atmospheric parameters influencing intrusions--wind direction and vertical atmospheric dispersion capability. First, basing burning restrictions upon hours of smoke intrusion means burning would continue to be regulated very closely according to wind direction, the most significant factor in determining the occurrence of a smoke intrusion. Second, if intrusions do occur, the minimum mixing height for burning is increased allowing greater dispersion of smoke and lessening the severity should additional intrusions occur.

Monitoring of Eugene-Springfield particulate air quality by nephelometer is implicit in the performance standard rules. However, since nephelometer values do not relate well to any current Federal particulate standards, it is also proposed to monitor on a real-time basis the actual particulate loading in the Eugene-Springfield area and to restrict burning when high levels are projected. Specifically, if a 24-hour average loading of 135 ug/m^3 (Fed. 24-hour secondary standard for total suspended particulate (TSP) = 150 ug/m^3) is projected burning would be prohibited under northerly wind conditions. It is believed this mechanism will prevent significant contributions by field burning to violations of Federal particulate standards in the Eugene-Springfield area.

Five hours of smoke intrusion were associated with field burning during 1979. A retrospective analysis of this smoke intrusion in the Eugene-Springfield area indicates the proposed performance standard would not have been a factor in regulating field burning.

Though application of this standard to areas of the Valley other than Eugene-Springfield was suggested at the August 6 EQC meeting, the proposed performance standard is specific to the Eugene-Springfield area. Staff believes a general application of the proposed standard would be premature at this time because:

1. The standard is based upon Eugene-Springfield air quality and smoke intrusion data only;

2. A retrospective analysis of its application has yet to be completed for Lebanon and Salem (where data is available) though completion is anticipated prior to the requested public hearing; and

3. A comprehensive analysis of the Lebanon-Sweet Home area should be completed to determine the type and extent of control mechanisms that would be effective in reducing the intrusion problem.

Currently, the Department is attempting to establish the potential impacts on both attainment and non-attainment areas of the acreage increases authorized by the Oregon Legislature. This analysis will, in great part, address items (2) and (3) above and establish the groundwork for a performance standard or other mechanism for preventing violations of Federal Prevention of Significant Deterioration (PSD) regulations. Such standards may result in a modification of the proposed rules or be an addition to them and would be included in the proposed SIP revision package.

Finally, once a performance standard, such as the one proposed, is adopted and in effect, it behooves the grass seed industry to operate within the standard and so brings it closer to self-regulation. Department staff and representatives of the Oregon Seed Council have discussed the potential for greater industry participation in the smoke management program operation. Organizational adjustments allowing an increased role by the seed industry in the smoke management decision making process appear feasible. However, they should be coupled with a performance standard and little or no near term decrease in the Department's role or exercise of regulatory authority.

Staff believes such increased Seed Council involvement could lead to overall program improvement through increased manpower and enhanced grower cooperation. However, additional smoke management costs would also accrue. When such additional costs are defined staff will meet with the Advisory Committee on Field Burning to assess potential impacts on future research prior to presenting recommendations. A report of the discussion and/or recommendations resulting from this meeting will be presented to the Commission.

Rule Changes Proposed for Clarification and Simplification

Rule changes are proposed to eliminate much of the detailed procedure for approval and operation of mobile field sanitizers. The rule, originally adopted in 1975 so that purchase and utilization of the machines would be expedited, to date have not been needed. It is believed the proposed rule would be adequate for certification of machines or other alternative methods.

Rules regulating the classification of marginal days and limiting the extent of burning are proposed to be extensively revised. These changes are designed to allow incorporation of the performance standard regulations as well as clarify the remainder of the section.

Other minor changes are made throughout the rules for clarification or to make them compatible with other necessary changes.

Summation

Rule changes are proposed which would:

1. Incorporate changes made necessary by passage of Senate Bill 472 including establishment of a 250,000 acre annual acreage limitation and restricting further revision of the limitation by the Environmental Quality Commission;

2. Provide for regulation of field burning on the basis of a performance standard approach including:

   a. Increasing restrictions on burning based on cumulative hours of smoke intrusion in the Eugene-Springfield area,

   b. Restrictions on burning based upon continuous total suspended particulate monitoring in order to avoid field burning related violations of Federal standards in the Eugene-Springfield non-attainment area, and

   c. Further analysis of current attainment areas to determine appropriate and necessary action to insure maintenance of standards and to avoid violation of Prevention of Significant Deterioration increment due to the potential increases in field burning afforded by SB 472; and

3. Clarify and reorganize the field burning rules.

Director's Recommendation

Based upon the Summation, it is recommended that the Environmental Quality Commission authorize a public hearing to take testimony on proposed revisions to Oregon Administrative Rules, Chapter 340, Sections 26-005 through 26-030.

Michael Downs
for
WILLIAM H. YOUNG

Attachments: I Draft Statement of Need for Rulemaking
II Draft Proposed Rule OAR, Chapter 340, Section 26-005 through 26-030

SAF:pas
686-7837
11/1/79

ATTACHMENT I

Agenda Item F, November 16, 1979, EQC Meeting
Field Burning Regulations and Amendment to the Oregon State Implementation Plan, Proposed Permanent Rule Revision to Agricultural Burning Rules, OAR Chapter 340, Section 26-005 Through 26-030 - Request for Public Hearing

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 through 26-030 is needed to:

1. Incorporate changes made necessary by adoption by the 1979 Oregon Legislature of Senate Bill 472 establishing new law regulating open field burning;

2. Make operational rule change supportive of the potential increase in acreage to be open burned authorized by SB 472; and

3. Clarify the existing rules.

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 report William H. Young, Director, Department of Environmental Quality, presented at the August 6, 1979, EQC meeting.

2. Record of the Environmental Quality Commission meeting, August 6 and November 16, 1979.

3. Personal communication with Terry Smith, Environmental Analyst, City of Eugene, August 3 and October 22, 1979.

4. Personal communication with Charles D. Craig, Smoke Management Specialist, Oregon Seed Council, October 17 and October 22, 1979.

5. Personal communication with David S. Nelson, Executive Secretary, Oregon Seed Council, October 12 and October 17, 1979.

SAF:pas
686-7837
11/1/79

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, or burning is specifically authorized by the Department for experimental or test purposes).

"[----]" 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:

$$VI = \frac{\text{(Effective mixing height (feet))}}{1000} \times \text{(Average wind speed through the effective mixing height (knots))}$$

(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, 447.530, 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 of 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 firectly 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. Little or no preparatory backfire burning shall be done."

(19) "Regular Headfire Burning" means a method of burning fields in which substantial preparatory backfiring is done prior to ignition of the upwind side of the field.

[~~(20) "Approved Field Sanitizer" means any field burning device that has been approved by the Department as an alternative to open field burning.~~

~~(21) "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.~~

~~(22) "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.~~

~~(23) "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.~~

~~(24) "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.~~]

(20) [~~(25)~~] "Approved Alternative Method(s)" means any method approved by the Department to be a satisfactory alternative method to open field burning.

(21) [~~(26)~~] "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.

(22) [~~(27)~~] "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.

(23) [~~(28)~~] "Drying Day" means a 24-hour period during which the relative humidity reached a minimum less than 50% and no rainfall occurred.

[~~(29) "Unlimited Ventilation Conditions" means atmospheric conditions which provide a mixing depth of 5000 feet or greater and a ventilation index of 32.5 or greater.~~]

(24) "Basic Quota" means an amount of acreage established for each permit jurisdiction, including fields located in priority areas, in a manner to provide, as reasonably as practicable, an equitable opportunity to burn.

(25) "Priority Area Quota" means an amount of acreage established for each permit jurisdiction, for fields in priority areas, in a manner to provide, as reasonably as practicable, an equitable opportunity to burn.

(26) "Effective Mixing Height" means either the actual plume rise as measured or the calculated mixing height, whichever is greater.

(27) "Cumulative Hours of Smoke Intrusion in the Eugene-Springfield Area" means the average of the total cumulative hours of nephelometer readings at the Eugene and Springfield sites which exceed the preexisting background readings by 1.8×10^{-4} b-scat units or more and which have been determined by the Department to have been significantly contributed to by field burning. For each hour of nephelometer reading which exceeds the preexisting background readings by 5.0×10^{-4} b-scat or more, two hours shall be added to the total cumulative hours for that site.

26-010 GENERAL PROVISIONS. The following provisions apply during both summer and winter burning seasons in the Willamette Valley unless otherwise specifically noted.

(1) Priority for Burning. On any marginal day, priorities for agricultural open burning shall follow those set forth in ORS 468.450 which give perennial grass seed fields used for grass seed production first priority, annual grass seed fields

used for grass seed production second priority, grain fields third priority and all other burning fourth priority.

(2) Permits required.

(a) No person shall conduct open field burning within the Willamette Valley without first obtaining a valid open field burning permit from the Department and a fire permit and validation number from the local fire permit issuing agency for any given field for the day that the field is to be burned.

(b) Applications for open field burning permits shall be filed on Registration/Application forms provided by the Department.

(c) Open field burning permits issued by the Department are not valid until acreage fees are paid pursuant to ORS 468.480(1)(b) and a validation number is obtained from the appropriate local fire permit issuing agency for each field on the day the field is to be burned.

(d) As provided in ORS 468.465(1), permits for open field burning of cereal grain crops shall be issued only if the person seeking the permits submits to the issuing authority a signed statement under oath or affirmation that the acreage to be burned will be planted to seed crops (other than cereal grains, hairy vetch, or field pea crops) which require flame sanitation for proper cultivation.

(e) Any person granted an open field burning permit under these rules shall maintain a copy of said permit at the burn site or be able to readily demonstrate authority to burn at all times during the burning operation and said permit shall be made available for at least one year after expiration for inspection upon request by appropriate authorities.

(f) At all times proper and accurate records of permit transactions and copies of all permits shall be maintained by each agency or person involved in the issuance of permits, for inspection by the appropriate authority.

(g) Open field burning permit issuing agencies shall submit to the Department on forms provided, weekly summaries of field burning activities in their permit jurisdiction during the period July 1 to October 15. Weekly summaries shall be mailed and postmarked no later than the first working day of the following week.

(3) Fuel conditions shall be limited as follows:

(a) All debris, cuttings and prunings shall be dry, cleanly stacked and free of dirt and green material prior to being burned, to insure as nearly complete combustion as possible.

(b) No substance or material which normally emits dense smoke or noxious odors may be used for auxiliary fuel in the igniting of debris, cuttings or prunings.

~~[(c) The Deparment may, on a field by field basis, prohibit burning of fields containing high moisture content stubble and/or regrowth material which, when burned, would result in excessive low level smoke.]~~

(4) In accordance with ORS 468.450 the Department shall establish a schedule which specifies the extent and type of burning to be allowed each day. During the time of active field burning, the Department shall broadcast this schedule over the Oregon Seed Council radio network operated for this purpose, on an as needed basis, depending on atmospheric and air quality conditions.

(a) Any person open burning or preparing to open burn under these rules shall conduct the burning operation in accordance with the Department's burning schedule.

(b) Any person open burning or preparing to open burn fields under these rules shall monitor the Department's field burning schedule broadcasts and shall conduct the burning operations in accordance with the announced schedule.

(5) Any person open field burning under these rules shall actively extinguish all flames and major smoke sources when prohibition conditions are imposed by the Department. Normal after smoulder excepted.

26-011 CERTIFIED ALTERNATIVE TO OPEN FIELD BURNING.

~~[(1) Approved pilot field sanitizers, approved experimental field sanitizers, or propane flamers may be used as alternatives to open field burning subject to the provisions of this section.~~

~~(2) Approved pilot field sanitizers.~~

~~(a) Procedures for submitting application for approval of pilot field sanitizers.]~~

[Applications shall be submitted in writing to the Department and shall include, but not be limited to, the following:

(i) Design plans and specifications;

(ii) Acreage and emission performance data and rated capacities;

(iii) Details regarding availability of repair service and replacement parts;

(iv) Operational instructions.

(b) Emission Standards for Approved Pilot Field Sanitizers.

(A) Approved pilot field sanitizers shall be required to demonstrate the capability of sanitizing a representative harvested grass or cereal grain field with an accumulative straw and stubble fuel load of not less than 1.0 ton/acre, dry weight basis, and which has an average moisture content not less than 10%, at a rate of not less than 85% of rated maximum capacity for a period of 30 continuous minutes without exceeding emission standards as follows:

(i) Main stack: 20% average opacity;

(ii) Leakage: not to exceed 20% of the total emissions.

(iii) After-smoke: No significant amounts originating more than 25 yards behind the operating machine.

(B) The Department shall certify in writing to the manufacturer, the approval of the pilot field sanitizer within thirty (30) days of the receipt of a complete application and successful compliance demonstration with the emission standards of 2(b)(A). Such approval shall apply to all machines built to the specifications of the Department certified field sanitation machine.

(C) In the event of the development of significantly superior field sanitizers, the Department may decertify approved pilot field sanitizers previously approved, except that any unit built prior to this decertification in accordance with specifications of previously approved pilot field sanitizers shall be allowed to operate for a period not to exceed seven years from the date of delivery provided that the unit is adequately maintained as per (2)(c)(A).

(c) Operation and/or modification of approved pilot field sanitizers.

(A) Operating approved pilot field sanitizers shall be maintained to design specifications (normal wear expected) i.e., skirts, shrouds, shields, air bars, ducts, fans, motors, etc., shall be in place, intact and operational.

(B) Modifications to the structure or operating procedures which will knowingly increase emissions shall not be made.

(C) Any modifications to the structure or operating procedures which result in increased emissions shall be further modified or returned to manufacturer's specifications to reduce emissions to original levels or below as rapidly as practicable.

(D) Open fires away from the sanitizers shall be extinguished as rapidly as practicable.

(3) Experimental field sanitizers not meeting the emission criteria specified in 2(b)(A) above, may receive Department authorization for experimental use for not more than one season at a time, provided:

(a) The operator of the field sanitizers shall report to the Department the locations of operation of experimental field sanitizers.]

(1) The Department may certify approved alternative methods of field sanitation and straw utilization and disposal on a permanent or interim basis provided the applicant for such certification:

(a) Provides information adequate to determine compliance with such emissions standards as may be developed pursuant to subsection (2) of this section as well as other State air, water, solid waste, and noise laws and regulations, and

(b) Operates any associated equipment subject to subsection (3) of this section or other operational standards as may be established by the Department.

(2) Pursuant to ORS 468.472 the Commission shall establish emission standards for alternative methods to open field burning. Such standards shall be set to insure an overall improvement in air quality as a result of the use of the alternative as compared to the open field burning eliminated by such use.

(3) Mobile field sanitizers and other alternative methods of field sanitation specifically approved by the Department, and propane flamers are considered alternatives to open field burning for the purposes of fee refunds pursuant to ORS 468.480 and may be used subject to the following provisions:

(a) [~~(b)~~] Open fires away from the machines shall be extinguished as rapidly as practicable.

(b) [~~(b)~~] Adequate water supply shall be available to extinguish open fires resulting from the operation of field santizers.

(c) [~~(4)~~] Propane flamers[~~.--Propane-flaming-is~~] may be used as an approved alternative to open field burning provided that all of the following conditions are met:

(a) Field sanitizers are not available or otherwise cannot accomplish the burning.

(b) The field stubble will not sustain an open fire.

(c) One of the following conditions exist:

(A) The field has been previously open burned and appropriate fees paid.

(B) The field has been flailchopped, mowed, or otherwise cut close to the ground and loose straw has been removed to reduce the straw fuel load as much as practicable.

26-012 REGISTRATION AND AUTHORIZATION OF ACREAGE TO BE OPEN BURNED.

(1) On or before April 1 of each year, all acreages to be open burned under this rule shall be registered with the local fire permit issuing agency or its authorized representative on forms provided by the Department. A nonrefundable $1.00 per acre registration fee shall be paid at the time of registration.

(2) Registration of acreage after April 1 of each year shall require:

(a) Approval of the Department.

(b) An additional late registration fee of $1.00 per acre if the late registration is determined by the Department to be the fault of the late registrant.

(3) Copies of all Registration/Application forms shall be forwarded to the Department [~~and-the-Executive-Department~~] promptly by the local fire permit issuing agency.

(4) The local fire permitting agency shall maintain a record of all registered acreage by assigned field number, location, type of crop, number of acres to be burned and status of fee payment for each field.

(5) Burn authorizations shall be issued by the local fire permit issuing agency up to daily quota limitations established by the Department and shall be based on registered feepaid acres and shall be issued in accordance with the

priorities established by subsection 26-010(1) of these rules, except that fourth priority burning shall not be permitted from July 15 to September 15 of any year unless specifically authorized by the Department.

(6) No local fire permit issuing agency shall authorize open field burning of more acreage than may be sub-allocated annually to the District by the Department pursuant to section 26-013(5) of these rules.

26-013 LIMITATION AND ALLOCATION OF ACREAGE TO BE OPEN BURNED.

(1) Except for acreage to be burned under 26-013(6) and (7), the maximum acreage to be open burned under these rules[~~:~~] shall not exceed that amount authorized under applicable State and Federal law.

[~~(a) Shall not exceed 180,000 acres annually:~~

~~(b) May be further reduced such that, if by September 7 of each year, the average of total cumulative hours of nephelometer readings exceeding 2.4 x 10^{-4} B scat units at Eugene and Springfield, which have been determined by the Department to have been significantly caused by field burning, equals or exceeds 16 hours, the maximum acreage to be open burned under these rules shall not exceed 150,000 acres and the sub-allocation to the fire permit issuing agencies shall be reduced accordingly, subject to the further provisions that:~~

~~(A) Unused permit allocations may be validated and used after the 150,000 acre cutoff only on unlimited ventilation days as may be designated by the Department, and~~

~~(B) The Commission may establish a further acreage limitation not to exceed 15,000 acres over and above the 150,000 acre limitation and authorize permits to be issued pursuant thereto, in order to provide growers of bentgrass seed crops and other late maturing seed crops opportunity to burn equivalent to that afforded growers of earlier maturing crops:~~]

(2) Any revisions to the maximum acreage to be burned, allocation procedures, permit issuing procedures or any other substantive changes to these rules affecting the open field burning program for any year shall be made prior to June 1 of that year. In making these rule changes the Commission shall consult with Oregon State University (OSU) and may consult with other interested agencies.

(3) Acres burned on any day by approved[~~field sanitizers and approved experimental field sanitizers and propane flamers~~] alternative methods shall not be be applied to open field burning acreage allocations or quotas, and such [equipment] operations may be [~~operated~~] conducted under either marginal or prohibition conditions.

(4) In the event that total registration is less than or equal to the acreage allowed to be open burned under section 26-013(1) all registrants shall be allocated 100 percent of their registered acres.

(5) In the event that total registration exceeds the acreage allowed to be open burned under 26-013(1) the Department may issue acreage allocations to growers totaling not more than 110 percent of the acreage allowed under section 26-013(1). The Department shall monitor burning and shall cease to issue burning quotas when the total acreage reported burned equals the maximum acreage allowed under section 26-013(1).

(a) Each year the Department shall sub-allocate 110 percent of the total acre allocation established by the Commission, as specified in section 26-013(1), to the respective growers on a pro rata basis of the individual acreage registered as of April 1 to the total acreage registered as of April 1.

(b) [~~Except as provided in subsection (1)(b) of this section;~~] The Department shall sub-allocate the total acre allocation established by the Commission, as specified in section 26-013(1) to the respective fire permit issuing agencies on a pro rata share basis of the acreage registered within each fire permit issuing agency's jurisdiction as of April 1 to the total acreage registered as of April 1.

(c) In an effort to insure that permits are available in areas of greatest need, to coordinate completion of burning, and to achieve the greatest possible permit utilization, [~~the Department may adjust, in cooperation with the fire permit utilization;~~] the Department may adjust, in cooperation with the fire districts, allocations of the maximum acreage allowed in section 26-013(1).

(d) Transfer of allocations for farm amanagement purposes may be made within and between fire districts on a one-in/one-out basis under the supervision of the Department. Transfer of allocations between growers are not permitted after the maximum acres specified in section 26-013(1) have been burned within the Valley.

(e) Except for additional acreage allowed to be burned by the Commission as provided for in (6) and (7) of this subsection no fire district shall allow acreage to be burned in excess of their allocations assigned pursuant to (b), (c) and (d) above.

(6) Notwithstanding the acreage limitations under 26-013(1), the Department may allow experimental open burning pursuant to [~~Section 9 of the 1977 Oregon Laws, Chapter 650, (HB 2196)~~] ORS 468.490. Such experimental open burning shall be conducted only as may be specifically authorized by the Department and will be conducted for gathering of scientific data, or training of personnel or demonstrating specific practices. The Department shall maintain a record of each experimental burn and may require a report from any person conducting an experimental burn stating factors such as:

1. Date, time and acreage of burn.
2. Purpose of burn.
3. Results of burn compared to purpose.
4. Measurements used, if any.
5. Future application of results of principles featured.

(a) Experimental open burning, exclusive of that acreage burned by experimental open field sanitizers, shall not exceed 7500 acres annually.

(b) For experimental open burning the Department may assess an acreage fee equal to that charged for open burning of regular acres. Such fees shall be segregated from other funds and dedicated to the support of smoke management research to study variations of smoke impact resulting from differing and various burning practices and methods. The Department may contract with research organizations such as academic institutions to accomplish such smoke management research.

(7) Pursuant to ORS 468.475[~~(6) and (7)~~] the Commission may permit the emergency open burning under the following procedures:

(a) A grower must submit to the Department an application form for emergency field burning requesting emergency burning for one of the following reasons;

(A) Extreme hardship documented by:

An analysis and signed statement from a CPA, public accountant, or other recognized financial expert which establishes that failure to allow emergency open burning as requested will result in extreme financial hardship above and beyond mere loss of revenue that would ordinarily accrue due to inability to open burn the particular acreage for which emergency open burning is requested. The analysis shall include an itemized statement of the applicants net worth

and include a discussion of potential alternatives and probable related consequences of not burning.

(B) Disease outbreak, documented by:

An affidavit or signed statement from the County Agent, State Department of Agriculture or other public agricultural expert authority that, based on his personal investigation, a true emergency exists due to a disease outbreak that can only be dealt with effectively and practically by open burning.

The statement must also include at least the following:

i) time field investigation was made,
ii) location and description of field,
iii) crop,
iv) infesting disease,
v) extent of infestation (compared to normal),
vi) necessity and urgency to control,
vii) availability, efficacy and practicability of alternative control procedures,
viii) probable damages or consequences of non-control.

(C) Insect infestation, documented by:

Affidavit or signed statement from the County Agent, State Department of Agriculture or other public agricultural expert authority that, based on his personal investigation, a true emergency exists due to an insect infestation that can only be dealt with effectively and practicably by open burning. The statement must also include at least the following:

i) time field investigation was made,
ii) location and description of field,
iii) crop,
iv) infesting insect,
v) extent of infestation (compared to normal),
vi) necessity and urgency to control,
vii) availability, efficacy, and practicability of alternative control procedures,
viii) probable damages or consequences of non-control.

(D) Irreparable damage to the land documented by [an]:

An affidavit or signed statement from the County Agent, State Department of Agriculture, or other public agricultural expert authority that, based on his personal investigation, a true emergency exists which threatens irreparable damage to the land and which can only be dealt with effectively and practicably by open burning. The statement must also include at least the following:

i) time of field investigation,
ii) location and description of field,
iii) crop,
iv) type and characteristics of soil,
v) slope and drainage characteristics of field,
vi) necessity and urgency to control,
vii) availability, efficacy and practicability of alternative control procedures,
viii) probable damages or consequences of non-control.

(b) Upon receipt of a properly completed application form and supporting documentation the Commission shall within 10 days, return to the grower its decision.

(c) An open field burning permit, to be validated upon payment of the required fees, shall be promtly issued by the Department for that portion of the requested acreage which the Commission has approved.

(d) Application forms for emergency open field burning provided by the Department must be used and may be obtained from the Department either in person, by letter or by telephone request.

(8) The Department shall act, pursuant to this section, on any application for a permit to open burn under these rules within 60 days of registration and receipt of the fee provided in ORS 468.480.

(9) The Department may on a fire district by fire district basis, issue limitations more restrictive than those contained in these regulations when in their judgment it is necessary to attain and maintain air quality.

26-015 WILLAMETTE VALLEY SUMMER BURNING SEASON REGULATIONS

As part of the smoke management program provided for in [Section-6-of-Oregon Law-1977,-Chapter-650] ORS 468.470 the Department shall schedule the times, places, and amounts of open field burning [conduct-a-smoke-management-program-which-shall include-in-addition-to-other-provisions-covered-in-these-rules] according to the following provisions:

(1) [Classification-of-Atmospheric-Conditions.--All-days] As provided for in 468.450 atmospheric conditions will be classified as marginal or prohibition [days] conditions under the following criteria:

(a) Marginal Class N conditions: Forecast northerly winds and a ventilation index [mixing-depth] greater than [3500-feet] 12.5.

(b) Marginal Class S conditions: Forecast southerly winds and a ventilation index greater than 12.5.

(c) Prohibition conditions: [Forecast-northerly-winds-and-a-mixing-depth-of 3500-feet] A ventilation index of 12.5 or less.

[(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.--Authorizations-of-acreages-shall-be-issued-in-terms-of single,-multiple,-or-fractional-basic-quotas-or-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-permit-jurisdiction,-including-fields-located-in-priority-areas,-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,-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-acre-quotas-or-less-as-follows: When-the-Department-has-authorized-one-quota-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.--Permits 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-its-judgment-warrent-such-action.

(2) [(3)] Limitations on Burning Hours.

(a) Burning hours shall be limited to those specifically authorized by the Department each day.

(b) Unless otherwise specifically limited by the Department, 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 later than one-half hour after sunset.

(c) [(b)] The Department may alter burning hours according to atmospheric ventilation conditions when necessary to attain and maintain air quality.

(d) [~~(c)~~] Burning hours may be reduced by the fire chief or his deputy when necessary to protect from danger by fire.

(3) Limitations on Locations and Amounts of Field Burning Emissions.

(a) Use of acreage quotas.

(A) In order to assure a timely and equitable distribution of burning, authorizations of acreages shall be issued in terms of single, multiple, or fractional basic quotas or priority area quotas as listed in Table 1, attached as Exhibit A and incorporated by reference into this regulation and schedule.

(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) 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 its judgment warrant such action.

(b) Distribution and limitation of burning under various classifications of atmospheric conditions.

[~~(4) Extent and Type of Burning:~~]

(A) [~~(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 completed, [~~or~~] an approved field sanitizer is used [~~:~~], or when burning is specifically authorized by the Department for determining atmospheric dispersion conditions or for experimental burning pursuant to Section 26-013(6) of this regulation.

(B) [~~(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:

(i) [~~(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.

(ii) [~~(B)~~] South Valley: one priority area quota for priority area burning may be issued in accordance with Table 1.

(C) [~~(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:

(i) [~~(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.

(ii) [~~(B)~~] South Valley: one basic quota may be issued in accordance with Table 1.

(D) [~~(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 Department has authorized one quota 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. Permits shall not be so issued on two consecutive days.

(c) Restrictions on burning based upon Eugene-Springfield air quality.

(A) The Department shall provide for increasing restrictions on burning through increasing the minimum allowable effective mixing height required for burning based upon cumulative hours of smoke intrusions in the Eugene-Springfield area as follows:

(i) Except as provided in (ii) of this subsection, burning shall not be permitted on a marginal day whenever the effective mixing height is less than the minimum allowable height specified in Table 2, attached as Exhibit B and incorporated by reference into this regulation.

(ii) Not withstanding the effective mixing height restrictions of (i) above, the Department may authorize up to 1000 acres, total for the Willamette Valley, each marginal day on a field-by-field or area-by-area basis.

(B) Based upon real time monitoring, if, in the absence of field burning, 24-hour total suspended particulate levels are projected to average 135 ug/m^3 or greater the Department shall prohibit burning under north wind conditions.

(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.

(e) Restrictions on burning techniques.

(A) The Department shall require the use of into-the-wind strip-lighting on annual grass seed and cereal crop fields when fuel conditions or atmospheric conditions are such that use of into-the-wind strip-lighting would reduce smoke effects, and specifically the Department shall require such use when:

(i) burning occurs shortly after restrictions on burning due to rainfall have been lifted or when the fields to be burned are wet; or

(ii) it is estimated that plume rise over 3500 feet will not occur.

(B) The Department shall require the use of perimeter burning on all dry fields where no severe fire hazard conditions exist and where strip-lighting is not required. "Severe fire hazards" for purposes of this subsection means where adjacent and vulnerable timber, brush, or buildings exist next to the field to be burned.

(C) The Department shall require regular headfire burning on all fields where a severe fire hazard exists.

(f) Restrictions on burning due to rainfall and relative humidity.

(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.

(C) Burning shall not be permitted in an area when relative humidity at the nearest measuring station exceeds 50 percent under forecast northerly winds or 65 percent under forecast southerly winds.

(D) The Department may on a field-by-field or area-by-area basis prohibit the burning of fields containing high moisture content stubble or regrowth material which, when burned, would result in excessive low level smoke.

26-020 WINTER BURNING SEASON REGULATIONS.

(1) Classification of atmospheric conditions:

(a) Atmospheric conditions resulting in computed air pollution index values in the high range, values of 90 or greater, shall constitute prohibition conditions.

(b) Atmospheric conditions resulting in computed air pollution index values in the low and moderate ranges, values less than 90, shall constitute marginal conditions.

(2) Extent and Type of Burning.

(a) Burning Hours. Burning hours for all types of burning shall be from 9:00 a.m. until 4:00 p.m., but may be reduced when deemed necessary by the fire chief or his deputy. Burning hours for stumps may be increased if found necessary to do so by the permit issuing agency. All materials for burning shall be prepared and the operation conducted, subject to local fire protection regulations, to insure that it will be completed during the allotted time.

(b) Certain Burning Allowed Under Prohibition Conditions. Under prohibition conditions no permits for agricultural open burning may be issued and no burning may be conducted, except where an auxilliary liquid or gaseous fuel is used such that combustion is essentially complete, or an approved field sanitizer is used.

(c) Priority for Burning on Marginal Days. Permits for agricultural open burning may be issued on each marginal day in each permit jurisdiction in the Williamette Valley, following the priorities set forth in ORS 468.450 which gives perennial grass seed fields used for grass seed production first priority, annual grass seed fields used for grass seed production second priority, grain fields third priority and all other burning fourth priority.

26-025 CIVIL PENALTIES. In addition to any other penalty provided by law:

(1) Any person who intentionally or negligently causes or permits open field burning contrary to the provisions of ORS 468.450, 468.455 to 468.480, 476.380 and 478.960 shall be assessed by the Department a civil penalty of at least $20, but not more than $40 for each acre so burned.

(2) Any person planting contrary to the restrictions of subsection (1) of ORS 468.465 shall be assessed by the Department a civil penalty of $25 for each acre planted contrary to the restrictions.

(3) Any person who violates any requirements of these rules shall be assessed a civil penalty pursuant to OAR Chapter 340, Division 1, Subdivision 2, CIVIL PENALTIES.

26-030 TAX CREDITS FOR APPROVED ALTERNATIVE METHODS, APPROVED INTERIM ALTERNATIVE METHODS OR APPROVED ALTERNATIVE FACILITIES.

(1) As provided in ORS 468.150, approved alternative methods or approved alternative facilities are eligible for tax credit as pollution control facilities ~~as described in~~ ORS 468.155 through 468.190.

(2) Approved alternative facilities eligible for pollution control facility tax credit shall include:

(a) Mobile equipment including but not limited to:

(A) Straw gathering, densifying and handling equipment.

(B) Tractors and other sources of motive power.

(C) Trucks, trailers, and other transportation equipment.

(D) Mobile field sanitizers[~~(approved models and approved pilot models)~~].

and associated fire control equipment.

(E) Equipment for handling all forms of processed straw.

(F) Special straw incorporation equipment.

(b) Stationary equipment and structures including but not limited to:

(A) Straw loading and unloading facilities.

(B) Straw storage structures.

(C) Straw processing and in plant transport equipment.

(D) Land associated with stationary straw processing facilities.

(E) Drainage tile installations which will result in a reduction of acreage burned.

(3) Equipment and facilities included in an application for certification for tax credit under this rule will be considered at their current depreciated value and in proportion to their actual use to reduce open field burning as compared to their total farm or other use.

(4) Procedures for application and certification of approved alternative facilities for pollution control facility tax credit.

(a) Preliminary certification for pollution control facility tax credit.

(A) A written application for preliminary certification shall be made to the Department prior to installation or use of approved alternative facilities in the first harvest season for which an application for tax credit certification is to be made. Such application shall be made on a form provided by the Department and shall include but not be limited to:

(i) Name, address and nature of business of the applicant.

(ii) Name of person authorized to receive Department requests for additional information.

(iii) Description of alternative method to be used.

(iv) A complete listing of mobile equipment and stationary facilities to be used in carrying out the alternative methods and for each item listed include:

(a) Date or estimated future date of purchase.

(b) Percentage of use allocated to approved alternative methods and approved interim alternative methods as compared to their total farm or other use.

(v) Such other information as the Department may require to determine compliance with state air, water, solid waste, and noise laws and regulations and to determine eligibility for tax credit.

(B) If, upon receipt of a properly completed application for preliminary certification for tax credit for approved alternative facilities the Department finds the proposed use of the approved alternative facilities are in accordance with the provisions of ORS 468.175, it shall, within 60 days, issue a preliminary certification of approval. If the proposed use of the approved alternative facilities are not in accordance with provisions of ORS 468.175, the Commission shall, within 60 days, issue an order denying certification.

(b) Certification for pollution control facility tax credit.

(A) A written application for certification shall be made to the Department on a form provided by the Department and shall include but not be limited to the following:

(i) Name, address and nature of business of the applicant.

(ii) Name of person authorized to receive Department requests for

additional information.

(iii) Description of the alternative method to be used.

(iv) For each piece of mobile equipment and/or for each stationary facility, a complete description including the following information as applicable:

(a) Type and general description of each piece of mobile equipment.

(b) Complete description and copy of proposed plans or drawings of stationary facilities including buildings and contents used for straw storage, handling or processing of straw and straw products or used for storage of mobile field sanitizers and legal description of real property involved.

(c) Date of purchase or initial operation.

(d) Cost when purchased or constructed and current value.

(e) General use as applied to approved alternative methods and approved interim alternative methods.

(f) Percentage of use allocated to approved alternative methods and approved interim alternative methods as compared to their farm or other use.

(B) Upon receipt of a properly completed application for certification for tax credit for approved alternative facilities or any subsequently requested additions to the application, the Department shall return within 120 days the decision of the Commission and certification as necessary indicating the portion of the cost of each facility allocable to pollution control.

(5) Certification for tax credits of equipment or facilities not covered in OAR Chapter 340, Section 26-030(1) through 26-030(4) shall be processed pursuant to the provisions of ORS 468.165 through 468.185.

(6) Election of type of tax credit pursuant to ORS 468.170(5).

(a) As provided in ORS 468.170(5), a person receiving the certification provided for in OAR Chapter 340, Section 26-030(4)(b) shall make an irrevocable election to take the tax credit relief under ORS 316.097, 317.072, or the ad volorem tax relief under ORS 307.405 and shall inform the Department of his election within 60 days of receipt of certification documents on the form supplied by the Department with the certification documents.

(b) As provided in ORS 468.170(5) failure to notify the Department of the election of the type of tax credit relief within 60 days shall render the certification ineffective for any tax relief under ORS 307.405, 316.097 and 317.072.

Exhibit A

TABLE 1

FIELD BURNING ACREAGE QUOTAS

NORTH VALLEY AREAS

County/Fire District	Quota	
North Valley Counties	Basic	Priority
Clackamas County		
Canby RFPD	50	0
Clackamas County #54	50	0
Clackamas - Marion FPA	100	0
Estacada RFPD	75	0
Molalla RFPD	50	0
Monitor RFPD	50	0
Scotts Mills RFPD	50	0
Total	425	0
Marion County		
Aumsville RFPD	100	0
Aurora-Donald RFPD	50	50
Drakes Crossing RFPD	100	0
Hubbard RFPD	50	0
Jefferson RFPD	225	50
Marion County #1	200	50
Marion County Unprotected	50	50
Mt. Angel RFPD	50	0

TABLE I

(continued)

County/Fire District	Quota	
North Valley Counties	Basic	Priority
Marion County (continued)		
St. Paul RFPD	125	0
Salem City	50	50
Silverton RFPD	600	0
Stayton RFPD	300	0
Sublimity RFPD	500	0
Turner RFPD	50	50
Woodburn RFPD	125	50
Total	2575	350
Polk County		
Spring Valley RFPD	50	0
Southeast Rural Polk	400	50
Southwest Rural Polk	125	50
Total	575	100
Washington County		
Cornelius RFPD	50	0
Forest Grove RFPD	50	0
Forest Grove, State Forestry	50	0
Hillsboro	50	0
Washington County RFPD #1	50	50
Washington County FPD #2	50	50
Total	300	150

TABLE I

(continued)

County/Fire District	Quota	
North Valley Counties	Basic	Priority
Yamhill County		
Amity #1 RFPD	125	50
Carlton RFPD	50	0
Dayton RFPD	50	50
Dundee RFPD	50	0
McMinnville RFPD	150	75
Newberg RFPD	50	50
Sheridan RFPD	75	50
Yamhill RFPD	50	50
Total	600	325
North Valley Total	4475	875

TABLE 1

(continued)

SOUTH VALLEY AREAS

County/Fire District	Quota	
South Valley Counties	Basic	Priority
Benton County		
County Non-District & Adair	350	175
Corvallis RFPD	175	125
Monroe RFPD	325	50
Philomath RFPD	125	100
Western Oregon RFD	100	50
Total	1075	500
Lane County		
Coburg RFPD	175	50
Creswell RFPD	75	100
Eugene RFPD		
(Zumwalt RFPD)	50	50
Junction City RFPD	325	50
Lane County Non-District	100	50
Lane County RFPD #1	350	150
Santa Clara RFPD	50	50
Thurston-Walterville	50	50
West Lane RPD	50	0
Total	1225	550
Linn County		
Albany RFPD (inc. N. Albany, Palestine, Co. Unprotected Areas)	625	125
Brownsville RFPD	750	100

TABLE I

(continued)

County/Fire District	Quota	
South Valley Counties	Basic	Priority
Linn County (continued)		
Halsey-Shedd RFPD	2050	200
Harrisburg RFPD	1350	50
Lebanon RFPD	325	325
Lyons RFPD	50	0
Scio RFPD	175	50
Tangent RFPD	925	325
Total	6250	1225
South Valley Total	8550	2275

Exhibit B

TABLE 2

MINIMUM ALLOWABLE EFFECTIVE MIXING HEIGHT
REQUIRED FOR BURNING BASED UPON THE CUMULATIVE HOURS
OF SMOKE INTRUSION IN THE EUGENE-SPRINGFIELD AREA

Cumulative Hours of Smoke Intrusion In the Eugene-Springfield Area	Minimum Allowable Effective Mixing Height (feet)
0 - 14	no minimum height
15 - 19	4,000
20 - 24	4,500
25 and greater	5,500

Victor Atiyeh
Governor

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 H, November 16, 1979, EQC Meeting
Informational Report: Status of Research on the Public Health Effects of Field Burning Smoke

Background

This report is presented at the request of the Environmental Quality Commission (EQC) for the purpose of informing the Commission and the general public on the progress being made to study the public health effects of field burning smoke. This is intended as a "preliminary" status report since additional information from several projects, both planned and in progress, are not yet available at this time. A more complete update will be presented at a later date, along with recommendations for further actions.

Introduction

At the present time there is very little definitive information on the direct long-term and short-term effects of field burning smoke on public health. The complexities and associated costs involved in studying this specific environmental health issue have severely limited the extent of major research efforts in this area to date. The absence of Federal fine particulate standards for use as a research guideline, combined with a lack of definitive information in the scientific literature on the health effects of open burning, or even fine particulate pollutants in general, have necessitated a deliberate approach by the Department in addressing this health effects problem, one which has long been the subject of considerable speculation.

This lack of information should not be taken to imply that significant effects from field burning do not occur; registered complaints alone attest to such problems. However, the tasks of 1) identifying the effects from field burning which do occur, 2) quantifying the health risks to various segments of the population, and then 3) putting these risks in perspective with the risks presented by exposure to other sources, in order to develop an effective control strategy, is a necessary though involved process of major proportion. Consequently, research to date should be considered preliminary, inconclusive, and, at best, only useful as technical support in directing further analysis.

Research investigations by the Department, with the advice and assistance of the Advisory Committee on Field Burning and it's Health Effect Subcommittee, have been directed at two levels:

1. Surveying, through literature review and discussions with various agencies, researchers, and physicians, the current state-of-the-art of health effects research, the range of available research alternatives, and the technical criteria necessary for comprehensive analysis of the field burning health effects question; and

2. Gathering of baseline data concerning

   a) the characterization of the physical/elemental properties of field burning and slash burning smoke, and smoke intrusions,

   b) the mutagenicity of field burning smoke particulate, and

   c) regional differences in public (respiratory) health through retrospective analysis of available statewide lung function data.

Findings from these investigations are summarized below, along with a discussion of problems which have been encountered and of additional projects which are planned or currently underway.

Research Findings

Prior to last year, very little formal work had been accomplished in assessing the effects of field burning on either air quality or public health. Evidence primarily consisted of subjective information derived from physician surveys, testimonials, and registered complaints.

In 1978, the Department initiated a formal and intensive program for the study of field burning and its effects on air quality in the Willamette Valley. The primary emphasis of this work was to determine the impact of field burning (as well as slash burning) on the attainment of Federal Ambient Air Quality Standards throughout the Valley and in the Eugene/Springfield non-attainment area in particular. A variety of additional information has been obtained concurrently with that effort, however, which contributes to our understanding of the public health risks of field burning and, and to a lesser extent, slash burning. Selected findings from these studies are as follows:

-- Field burning smoke intrusions are generally localized and of short duration. Because of this, and the particle-size characteristics of smoke, 24-hour total suspended particulate (TSP) measurements do not readily detect the impact of a smoke intrusion.

-- Field/slash burning emissions consist primarily of particulate in the fine size range; approximately 75-95 percent by weight are less than 2.2μ. The mass median diameter (MMD) of field burning smoke, as measured within the plume and downwind at ground level, is approximately .5μ. This size is within the range of maximum alveolar (lung) deposition.

-- Vegetative open burning during the summer months contributes in the range of 25 percent to local fine particulate levels, with evidence to indicate that the relative contribution from slash burning exceeds that of field burning in the higher population centers.

-- Particulate derived from soils comprises approximately one-half of the total suspended particulate (TSP) levels in the Valley; however, the role of field burning in the enhancement of this soils component is not known.

-- Rough estimates of the maximum potential population exposure to smoke from open field or slash burning can be significant, up to 300,000 persons or more on a given day.

-- Management of the techniques and conditions under which burning is permitted can significantly affect the location, intensity, and duration of ground level smoke intrusions.

-- The concentrations of polynuclear organic material (POM) in field burning smoke have been measured, both as emissions from the source and as ambient levels downwind. Levels emitted from the field are high, as would be expected under combustion conditions. Ambient POM levels downwind (Eugene and Coburg) under field/slash burn impact conditions, however, were found to be relatively low or below detectable limits. POM are of considerable interest from a health perspective because of their reported role as cancer-causing agents.

In addition to the above findings, the Department also submitted several filter samples to toxicologists at the University of California at Berkeley for analysis of the mutagenicity of ambient levels of field burning smoke particulate. The mutagenic activity of a substance is considered to be strongly correlated to its carcinogenicity. The samples were collected from Eugene and Springfield on days representing both intrusion and non-intrusion conditions. Results from these tests indicated little, if any, mutagenic activity at the doses tested. Though informative, these findings should not be considered definitive evidence until additional testing is accomplished.

Finally, in an effort to scan the public health record for any obvious patterns or glaring dissimilarities in respiratory health between residents of different regions of the state, the Department initiated a statistical analysis of some data made available through the Oregon Lung Association. These data consisted of lung-function (spirometric) measurements collected by the Association during its five-year Christmas Seal Breathmobile Program. The Breathmobile toured various parts of the state offering free spirometric tests to the public on a voluntary basis. By design, different regions of the state were delineated on a geographical/airshed basis for the study, and the respiratory data for residents of these regions were then compared.

As would be expected, respiratory function was found to decline with age and with increased smoking intensity. Interestingly, though, for non-smokers, average lung function measurements differed significantly between regions; those who were tested from the mid-Willamette Valley region demonstrated significantly higher lung-function values (and presumably better respiratory health) than those tested from other areas, when the effects of age, sex, and height were accounted for.

Now, it must be emphasized that the intent of this retrospective analysis was not to define, in absolute terms, the extent of the long-term impact of field burning, or any other pollution source, on public health; the base-data was inadequate for anything more than simply a crude and cursory view of existing public health patterns. Questions still exist as to the comparability of the test groups representing each region, and the role of regional climatology and its potential overriding effect on respiratory performance. The Department is currently reviewing the original data in an effort to address some of these concerns, however, it is unlikely most can be resolved. Therefore, the results from this study should be viewed with a great deal of caution and in no way should be considered as evidence that the health risks from long-term exposures to field burning smoke are negligible or non-existent.

Discussion

The findings from projects described above can only be considered preliminary, and therefore additional study is needed. As with any new area of research, initial efforts are directed more to a review of existing and readily accessible information, however limited, than to developing new and costly projects which may subsequently prove to be repetitious of previous work. Retrospective approaches, such as the Breathmobile study described above, contribute to the baseline data and to our general understanding of the field burning health effects issue. They help highlight the complexities of this environmental health problem and some of the technical and methodological considerations which must be made in studying it.

However, at best, these kinds of approaches offer only a broad view of some very specific interactions. The staff had hopes that these preliminary retrospective analyses would at least serve as a basis for supporting or denying the need for an intensive prospective research program, however, this has not been the case from accomplishments to date. Additional preliminary research projects are planned for the near future (see Director's Recommendations), though it is likely they will serve more to improve and refine our present data-base than to resolve the health effects question per se. In fact, permanent resolution of this issue, if indeed it is possible, will probably require a long-term, intensive, and coordinated investigative effort.

In addition to planning and implementing preliminary studies, staff has reviewed background literature and initiated discussions with various researchers, physicians, and public health specialists concerning the range of research alternatives which are available and would be most effective in studying the health effects of field burning.

A Health Effects Research Subcommittee to the Advisory Committee on Field Burning has been formed to provide staff with professional expertise in reviewing and directing research in this area. Discussions to date have been useful in helping to identify specific components which will be necessary for a successful research program. These are discussed below.

Critical to any environmental health research effort is the determination of which kinds of health effects and, correspondingly, for an epidemiological approach, which individuals will be studied. Those with chronic respiratory ailments may find their conditions seriously exacerbated at pollution levels which have no detectable effect on less sensitive or normal subjects. The method of detecting these effects, whether it be through questionnaires or monitoring hospital records, for example, will also affect the reliability of the results. In addition, not only must the exposure of the study group to specified levels of the particular pollutant be verified, but exposures to indoor pollutants, both at work or at home, must also be controlled.

Aside from these general considerations, close consideration must also be given to the unique problems presented to field burning which have not typically been considered in traditional health effects research. Of foremost concern, for example, is the potential for bias due to the visibility of field burning activity, and the considerable public attention and controversy it attracts each summer. Care must be taken that health effects attributed to field burning be independently verified through correlation with records of burning activity and measured smoke levels. Secondly, because field burning is only a seasonal activity, and its intrusions are generally transient in nature, it is extremely difficult to detect and distinguish its direct chronic (long-term) effects from the effects of other sources and factors to which individuals are typically exposed, both during the summer and year-round. If an epidemiological approach is implemented, such as selecting and monitoring the health of small, sample populations during the field burning season, it may be difficult to establish effective control and study areas which are comparable, but differ only in the amount of smoke intrusions which occur. Continued changes in recent years in the smoke management program tend to alter the distribution of smoke from field burning within the Valley such that areas which have historically received smoke are now better protected. As a result, it may be difficult to obtain enough reliable impact information on the effects of this single source during a single season of testing.

Ultimately, a "dose-response" relationship between the intensity of an intrusion and the intensity of the effect will be needed in order to develop and operate an effective control program. It should then be the goal of the field burning health effects research program to provide a comprehensive and reliable understanding of the health related impacts which do occur, and which is suitable for determining both "acceptable" levels of effect as well as effective control standards. In light of this goal, the following objectives are recognized as the minimum required for a successful research program.

-- Consideration of the effects of other major fine particulate sources, such as slash burning, backyard burning, and residential wood heating, in addition to field burning.

-- Documentation of both the acute (short-term) and chronic (long-term) public health effects resulting from smoke exposure. Studies should be designed so that future follow-up analysis can be made to check progress and trends.

-- Consideration of the effects on various segments of the public, including both "normal" and "sensitive" individuals.

-- Documentation of economic costs associated with the public health effects, such as the increased use of health services and medications, loss of income from work absences, and reduced activities resulting from illness.

Based on these preliminary findings and discussions of current informational needs, four specific research activities are currently being developed and planned for implementation in the coming year:

Voluntary Health Questionnaire: staff is currently developing a voluntary health questionnaire which can be administered to individuals who register air pollution complaints specifically related to a health problem or effect. The questionnaire would be designed to document information pertinent to determining the duration and intensity of symptoms which are typically encountered, and the actions taken in response to these symptoms. Personal background data would also be taken to help distinguish which segments of the population are affected, to what degree, and where they live.

Because of the additional staff time this would require during high complaint periods, it may be necessary to administer the questionnaire only to a proportion of the complainants on any given day. Staff plans to implement it on a trial basis this fall to determine its feasibility.

We would propose to use this information as a guide in designing future research, as well as an informal and qualitative means of evaluating the effectiveness of the control program. It may also improve our understanding of the kinds of activities and conditions most responsible for producing public complaints. The information currently recorded when a complaint is filed is of limited value as an analysis tool.

In the broader perspective the questionnaire could ultimately serve to stimulate interest in developing a permanent public health monitoring network within the State for use by a variety of State and local health agencies.

Mutagenicity Testing: staff is considering additional testing of smoke-impacted ambient filter samples for determination of the carcinogenicity of field burning and slash burning smoke. Samples representing a greater range of smoke impact conditions should be investigated with consideration given to new testing procedures which have recently been developed.

Hospitalization Study: staff has been in contact with various hospitals in the south and east portions of the Willamette Valley in an attempt to develop a retrospective analysis of hopsital admissions data (hospitalization rates) for correlation with selected periods of both smoke intrusion and non-intrusion conditions. Information derived from this kind of approach will of course be limited to only those effects severe enough to require hospitalization, in most cases resulting from the exacerbation of an existing health problem. However, it will provide a view of the impact on the most "sensitive" individuals under the most extreme conditions. Unfortunately, records of visits to private physicians are not readily available, though this would probably reflect more accurately the health impacts which typically occur.

Tentative Long-Range Plan: once a substantial amount of information has been gained from these and possibly other preliminary research projects, both public and professional input should be sought to evaluate the need for further, more intensive research. If necessary, a health effects workshop involving the participation of various agencies and experts in the field of air pollution health effects research could be arranged for the purpose of refining a detailed long-range study plan. Cost estimates for various research options could also be determined. Of course, designing and implementing a major epidemiological research project would require considerable time, coordination, and funding, with assistance from a variety of sources other than field burning fees (cost estimates of such a project are in the range of three-fourths to one and one-half million dollars.)

Director's Recommendation

Based upon the preliminary findings presented above and the discussion of current informational needs, it is recommended that the Commission:

(1) Concur in the proposed course of action to implement the four specific research activities outlined above; and,

(2) Direct the staff to report back to the Commission at a later date on the progress and findings from these preliminary research projects, with recommendations for further action to be made at that time.

Bill

WILLIAM H. YOUNG

SKO:pas
10/4/79
686-7837

Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item I, November 16, 1979, EQC Meeting

Proposed Adoption of Noise Control Regulations for Airports, OAR 340-35-045; Amended Definitions, 340-35-015 and Airport Noise Control Procedure Manual, NPCS-37.

BACKGROUND

Introduction

At its October, 1979, meeting the Commission considered for adoption the Proposed Noise Control Regulations for Airports, with amended definitions and attendant procedure manual, NPCS-37. (See attached Staff Report of October 19, 1979.) The Commission declined to adopt the proposed rule, directing the Department to evaluate new testimony and to consider alternatives for addressing noise impacts between the 55 and 65 dBA contours.

Theoretical Overview

The purpose of the proposed rule is to provide for noise abatement planning when it appears that the planning process will be fruitful. The rule holds the airport proprietor responsible for initiating a "hard look" at a number of potential abatement measures, even though some of those measures may not be within the proprietor's power to implement. The rule does not require the proprietor to adopt or implement any specific procedure; the proprietor's responsibility is to analyze options and to bring before the Commission a feasible program that the proprietor is willing to implement to the extent of this authority. The magnitude and scope of the proposed noise abatement program would be dependent upon the number of feasible options available to the proprietor.

Although the proposed rule does not address local government as a land use planning body, the rule would provide a tool for the Department to use in assuring that affected local governments reasonably assist, and cooperate with, the airport proprietor. Failure of a land use planning body to act responsibly with respect to an identified airport noise problem would be addressed in the Department's comments to the Land Conservation and Development Commission concerning comprehensive plan acknowledgment.

Overview of Proposed Rule

The purpose of the proposed rule is to provide a mechanism for addressing existing airport noise problems and to implement preventative measures to address potential problems.

The seven air carrier airports would be required to develop a noise impact boundary (Ldn 55 decibel contour) within twelve months of rule adoption. Then, if it is shown that a problem exists, and that an airport noise abatement program would be beneficial, the airport may be required to initiate the development of a program. The airport noise abatement program would contain an airport operational control plan and a land use and development plan, and would be brought to the Commission for final approval.

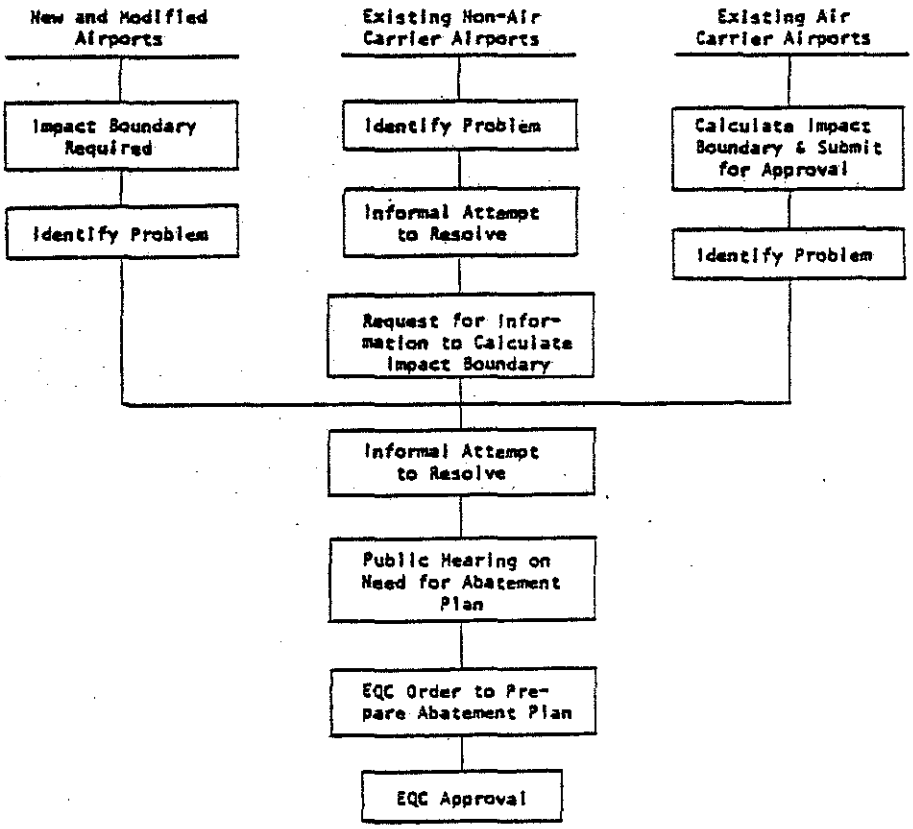
Any new or modified airport would develop an impact boundary to ensure that land use and development would be compatible with the airport.

After it is shown that a problem exists at a non-air carrier airport, the proprietor would be required to provide data to the Department, so that Department staff could calculate the airport noise impact boundary. As with the larger airports, the abatement program would only then be required if need were to be shown.

Any airport noise problem brought to the Department's attention would be the subject of an informal resolution process. The Director would consult with all affected parties to attempt to resolve the problem prior to requiring any noise abatement program development. The Commission would make the final determination whether an abatement program is appropriate.

FLOW CHART

PROPOSED NOISE CONTROL RULES FOR AIRPORTS



SUMMARY AND EVALUATION OF TESTIMONY

Land Use

At the October 16 Commission meeting, the City of Eugene testified that the proposed rule does not provide adequate methods for assuring cooperation between the proprietor and the land use planning jurisdiction. The Department believes that utilizing its review powers regarding comprehensive plans will assure a spirit of cooperation among land use planning authorities in most cases. In any event, the Department does not believe it should directly regulate the planning functions of local governments. Although the airport proprietor is responsible for proposing land use modifications to affected local governments, the rule does not place any burden on the proprietor in the event of non-cooperation by the affected local government.

Advisory Committee

Eugene proposed a detailed scheme for the selection of an advisory committee that would prepare the abatement program, and present it to the Commission. The proposed composition of the Advisory Committee appears well-balanced, but the Department believes it is unnecessary to mandate details of public participation. Aggrieved persons unsatisfied with a proprietor's public participation program could appear before the Commission at the time the abatement program is offered for approval.

The Department feels strongly that the program brought before the Commission should be wholeheartedly supported by the proprietor. Certainly the proprietor would wish to weigh suggestions from various sources, and would wish to incorporate those options the proprietor believed feasible. But if the program reflects the concensus of a committee rather than the commitment of the airport proprietor, implementation would take on the form of a mandatory control.

New Airports

The Aeronautics Division noted that the proposed rule required new airports (including modified airports) to develop a noise abatement program without the "problem identification" provisions afforded to existing airports.

The purpose for requiring an entire program for all new airports was to ensure that preventative noise control measures would be taken. Some new and modified airports may not benefit from the development of the program, however, so staff has recommended that the "problem identification" provisions be applied prior to development of a new airport noise abatement program.

Impact Boundary

Aeronautics testified that the Department may have a difficult time evaluating and approving the noise impact boundary analysis without the data used to develop the analysis. Therefore, requirements have been added to subsection (3) to provide such data for the Department's evaluation of the impact boundary. The proposed rule did not indicate whether the impact boundary requirement applies to present or future years. Amendments have been made to clarify that the boundary is to be provided for current, or existing, operations.

Aeronautics comments indicated subsection (3)(d) was unclear in that an "analysis" of master plans must be provided using the Ldn 55 criterion. Staff has proposed to amend that section by requiring noise impact boundaries under current operations and projected future operations, in lieu of an analysis.

Verification and Modeling

Aeronautics testimony indicates there is no justification for requiring field verification of mathematical models used to calculate noise contours. However, testimony was presented that claimed the mathematical models are incorrect because they are based upon "published" flight tracks rather than actual tracks. Aircraft do not always fly within the published tracks so the mathematically determined contours should be verified, and adjusted as necessary, to account for variations between published and actual conditions. The Department is aware that most airport prediction models can be adjusted if comparisons between calculated and measured noise levels are not satisfactory. If gross errors are found, it is most likely that the model does not adequately describe airport operations and would thus need refinement.

Aeronautics suggested that noise contours be developed using an FAA approved mathematical model, and that it is "nearly impossible" to adjust a model based upon field measurements. The Department does not agree that FAA models or FAA approved models provide the only acceptable methods to calculate noise contours. Many models are in existence, some developed by EPA, FAA and private firms. Each model has its own advantages and disadvantages and should be accepted on its own merit. The Department will evaluate each individual contour analysis based upon the needs and characteristics of a specific airport.

Preemption

The FAA preemption issue, again raised by Aeronautics, was thoroughly discussed in the October 19, 1979 staff report, as attached. The Department believes the present wording of the proposed rule provides sufficient flexibility to allow the proprietor to bring before the Commission a program he believes is suitable. At the same time, the FAA's position on the proposed program would be made known to the Commission.

Contours

Eugene recommended that primary and secondary criteria be used to emphasize priorities for the 65 and 55 dBA contours. This proposal is discussed below in the "Alternatives" section.

ALTERNATIVES

Descriptors

Day-Night Noise Level (Ldn), Community Noise Equivalent Level (CNEL), Noise Exposure Forecast (NEF), and Equivalent Noise Level (Leq) are all measures of cumulative energy over time. Of these, the Ldn is perhaps the simplest, yet provides a fairly accurate indication of annoyance from aircraft noise. The more complex NEF descriptor was used by the Federal Aviation Administration for a number of years, primarily because it was thought that the descriptor's consideration of annoyance from pure tones rendered it more accurate than the Ldn.

FAA now endorses the Ldn, as do most other agencies involved in noise measurement. The time above (TA) descriptor is a cumulative time measure. It provides an index of the amount of time during which a pre-set threshold level was exceeded. To be effective, the measurements must utilize multiple alternative thresholds, such as 75, 85, 95, and 105 dBA. Although any comprehensive measurement scheme would ideally involve both a cumulative energy measure and a cumulative time measure, the TA descriptor appears to have received minimal use.

The Department believes that significant staff work would be necessary to develop criteria for a TA descriptor and that such criteria would, to a great degree, be based on speculation, considering the dearth of research data available on health and welfare effects of short duration exposure to peak noise levels.

The Department feels confident that the Ldn provides an adequate and justifiable basis for consistently measuring the annoyance of airport/aircraft noise levels.

Primary/Secondary Contours

The City of Eugene has proposed that the 65 contour be designated a primary criterion, and the 55 contour be designated a secondary criterion, analogous to the Clean Air Act standards. The rationale for this proposal appears to be a desire to see most effort concentrated on solving or preventing conflicts within the higher contours, with effort in the lower impact areas of lesser importance. The Department certainly agrees that, all things being equal, effort should be expended to resolve the more serious problems first. The Department feels, however, that in many cases, the range of options available to address problems at the 65 and above will be limited, compared to the options available to prevent or abate more moderate problems. The rule in its present form places a great deal of emphasis on planning to prevent the creation of new use conflicts.

Any program, whether adopted under the Department's proposed wording or the City's suggested amendment, would be based upon feasibility. If certain abatement measures are impractical within a 65 dBA contour, designating the contour a "Primary Criterion" would not alter the impracticality. Conversely, if abatement measures within the 55 contour are feasible, those measures should be implemented notwithstanding the designation of the contour as "Secondary".

Partial Analysis Below 65 dBA Contour

Concern has been expressed that some of the proposed abatement procedures, while sometimes appropriate at higher noise exposures, are never appropriate near the 55 dBA contour. While the Department felt that the merits of these procedures could be discussed on a case-by-case basis, it may be appropriate to attempt to delineate procedures seldom or never appropriate outside the Ldn 65 boundary.

The Department has rewritten subsection (4)(b)(C) (at Pg 15 of the proposed rule), to indicate its perception of those options that could be arbitrarily excluded from consideration in areas outside the 65 contour without defeating the primary intent of the rule.

No Analysis Below 65 dBA Contour

The Department has repeatedly contemplated limiting all consideration of noise impact and noise compatibility planning to areas within the 65 dBA contour. Although few agencies are willing to aggressively plan at levels of moderate impact, between the 55 and 65 dBA contours, virtually all affected agencies

recognize the need for noise mitigation or planning above the 65 dBA contour. As a result, federal monies are available for mitigation at this level, and most of the planning work done thus far in Oregon has focused on the higher levels of impact.

It appears that some work still remains to be done within the 65; the City of Eugene's testimony, for instance, indicates that appropriate land uses at that level have not been agreed upon. By concentrating on only this higher impact level, staff work would be greatly reduced and the number of airports affected by the rule would be decreased. By way of example, the La Grande Municipal Airport hosted approximately 37,000 total operations in 1977, but the 65 dBA contour for that year virtually touches the edge of the runways, and extends only 800 feet beyond the primary runway.

The Department has attempted to develop the proposed rule to provide meaningful data for careful planning. It appears that limiting the scope of the rule to the 65 contour would alter that intent and would concentrate solely on existing, substantial impacts. Not only would the rule be devoid of mechanisms for planning or mitigation at the moderate impact levels, but much of the Department's activities would simply mirror the approach of the FAA. Although FAA has succeeded in greatly reducing the impact at the higher exposure levels, the Department feels that distinct noise conflicts still exist, and will continue to expand, until actions are taken that address present and projected impacts at moderate levels of exposure.

Changes Subsequent to October 16 Commission Meeting

Wording was added to the Statement of Purpose, section 35-045(1), to indicate that the cooperation of state, federal and local governments in the preparation of a noise abatement program is a desired goal, but not necessarily a condition precedent to the development of a noise abatement program.

A further wording change in the Statement of Purpose indicates that the proposed rule is designed to encourage cooperation, among the several affected parties.

Changes in subsections (3)(a) and (b) make it clear that the Noise Impact Boundary to be developed by Air Carrier Airports is an existing contour, rather than a contour projected for future years. The changes also require the submittal of data and analysis used to determine the boundary, and field verification data.

Subsection (3)(c) now provides that new airports develop and submit a Noise Impact Boundary and attendant data, rather than a Noise Abatement Program, as previously required.

Subsection (3)(d) requires Noise Impact Boundaries to be submitted for specified future years whenever funding is obtained to develop an Airport Master Plan. This new wording replaces a requirement to perform an "analysis" using the Noise Impact Criterion.

Changes to subsection (4)(a) make consistent the development process for abatement programs for new and in-use airports. This section now provides for the Commission, rather than the Director, to make a determination requiring the preparation of a Noise Abatement Program. In addition, a third criterion, dealing with feasibility of a Noise Abatement Program, has been added.

Land use and development control plan elements under subsection (4)(b)(C) now indicate to which levels of noise exposure they apply.

Subsection (4)(d) adds a provision for Commission approval of a Noise Abatement Program. While approval was implicit in the preexisting subsection (4)(b), this new subsection makes the conditions for approval explicit by setting out criteria. The subsection also makes it clear that a Commission-adopted program is an order of the Commission.

Subsection (4)(f), Program Revisions, has been given added language to indicate that unforeseen changes in land use may trigger a program revision.

SUMMATION

Drawing from the Background and the Summary and Evaluation of Testimony presented in this report, the following facts and conclusions are offered.

1. The nature of any abatement program prepared under the proposed rule would be dependent upon the feasible and practicable options available for implementation.

2. The proposed rule does not directly regulate the planning functions of local governments. The Department would utilize an adopted rule as a policy framework for review of local comprehensive plans and planning decisions.

3. The Ldn descriptor gives a generally accurate indication of annoyance from aircraft noise, and is simpler to use than other generally accepted descriptors.

4. Limiting the scope of noise analysis around airports to areas above 65 dBA would limit the effectiveness of planning activities designed to assure future compatibility of use.

5. Some types of abatement techniques that may be appropriate in areas of significant noise exposure are inappropriate at moderate noise exposure levels.

DIRECTOR'S RECOMMENDATION

Based upon the Summation and the Summation appearing at Pp of 14-16 of Appendix C, attached, it is recommended that the Commission adopt Attachment B hereto as a permanent rule to become effective upon its prompt filing with the Secretary of State. Attachment B includes:

a) Proposed Amended Definitions, OAR 340-35-015.

b) Proposed Noise Control Regulations for Airports, OAR 340-35-045.

c) Proposed Airport Noise Control Procedure Manual, NPCS-37.

Michael Downs
for
WILLIAM H. YOUNG

John Hector/pw
(503)229-5989
October 31, 1979

Attachments

Appendix A - Statement of Need for Rulemaking
Appendix B - Proposed Rules
a) Amendments to Definitions, OAR 340-35-015
b) Proposed Noise Control Regulations for Airports, OAR 340-35-045
c) Proposed Airport Noise Control Procedure Manual, NPCS-37
Appendix C - Staff Report, Agenda Item J, October 19, 1979 EQC Meeting
Appendix D - Hearing Officer's Report

Appendix A
Agenda Item
November 16, 1979
EQC Meeting

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

The proposed rule may be promulgated by the EQC under authority granted in ORS 467.030.

(2) Need for the Rule

Airport noise is exempt from existing Commission noise control regulations and testimony indicates public exposure to excessive aircraft noise. This rule would provide a method to evaluate noise exposure and to order an abatement program if deemed necessary.

(3) Principal documents relied upon in the rulemaking include:

a) Petition for rule amendment submitted by Oregon Environmental Council and others received October 27, 1978.

b) Summary of Testimony Gathered During Airport Noise Workshops dated May 3, 1979.

c) Hearing Officer Report for rulemaking hearings held during August, 1979.

d) Airport-Land Use Compatibility Planning U.S. DOT - FAA, dated 1977.

e) Airport Compatibility Planning - Recommended Guidelines and Procedures for Airport Land Use Planning and Zoning Oregon DOT - Aeronautics Division, dated 1978.

f) Aviation Noise Abatement Policy U.S. DOT - FAA dated November 12, 1976.

g) Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety U.S. EPA, dated March 1974.

h) Department of Housing and Urban Development, Environmental Criteria and Standards, Title 24, Code of Federal Regulations, Part 51.

i) Aircraft Noise and the Market for Residential Housing: Empirical Results for Seven Selected Airports U.S. DOT dated September, 1978.

j) Final Report on the Home Soundproofing Pilot Project for the Los Angeles Department of Airports, Wyle Laboratories Research Staff, dated March 1970.

k) Testimony submitted to the Commission at its October 19, 1979 meeting.

DEPARTMENT OF ENVIRONMENTAL QUALITY

PROPOSED NOISE CONTROL REGULATIONS FOR AIRPORTS

DIVISION 35

CHAPTER 340, OREGON ADMINISTRATIVE RULES

NOVEMBER 16, 1979

Portions of Existing Rules are Presented for
Clarity and Completeness and are so Noted

(Existing Materials)

35-005 POLICY. In the interest of public health and welfare, and in accordance with ORS 467.010, it is declared to be the public policy of the State of Oregon:

(1) to provide a coordinated state-wide program of noise control to protect the health, safety, and welfare of Oregon citizens from the hazards and deterioration of the quality of life imposed by excessive noise emissions;

(2) to facilitate cooperation among units of state and local governments in establishing and supporting noise control programs consistant with the State program and to encourage the enforcement of viable local noise control regulations by the appropriate local jurisdiction;

(3) to develop a program for the control of excessive noise sources which shall be undertaken in a progressive manner, and each of its objectives shall be accomplished by cooperation among all parties concerned.

35-010 EXCEPTIONS. Upon written request from the owner or controller of a noise source, the Department may authorize exceptions as specifically listed in these rules.

In establishing exceptions, the Department shall consider the protection of health, safety, and welfare of Oregon citizens as well as the feasibility and cost of noise abatement; the past, present, and future patterns of land use; the relative timing of land use changes and other legal constraints. For those exceptions which it authorizes, the Department shall specify the times during which the noise rules can be exceeded and the quantity and quality of the noise generated, and when appropriate shall specify the increments of progress of the noise source toward meeting the noise rules.

New Material is Underlined and
Deleted Material is [Bracketed].

35-015 DEFINITIONS. As used in this Division.

(1) "Air Carrier Airport" means any airport that serves air carriers holding Certificates of Public Convenience and Necessity issued by the Civil Aeronautic Board.

(2) "Airport Master Plan" means any long-term development plan for the airport established by the airport proprietor.

(3) "Airport Noise Abatement Program" means a Commission-approved program designed to achieve noise compatability between an airport and its environs.

(4) "Airport Proprietor" means the person who holds title to an airport.

[(1)] (5) "Ambient Noise" means the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far.

(6) "Annual Average Day-Night Airport Noise Level" means the average, on an energy basis, of the daily Day-Night Airport Noise Level of a 12-month period.

[(2)] (7) "Any one hour" means any period of 60 consecutive minutes during the 24-hour day.

[(3)] (8) "Commission" means the Environmental Quality Commission.

[(4)] (9) "Construction" shall mean building or demolition work and shall include all activities thereto such as clearing of land, earthmoving, and landscaping, but shall not include the production of construction materials.

(10) "Day-Night Airport Noise Level (Ldn)" means the Equivalent Noise Level produced by airport/aircraft operations during a 24-hour time period, with a 10 decibel penalty applied to the level measured during the nighttime hours of 10 pm to 7 am.

[(5)] (11) "Department" means the Department of Environmental Quality.

[(6)] (12) "Director" means the Director of the Department.

[(7)] (13) "Emergency Equipment" means noise emitting devices required to avoid or reduce the severity of accidents. Such equipment includes, but is not limited to, safety valves and other pressure relief devices.

(14) "Equivalent Noise Level (Leq)" means the equivalent steady state sound level in A-weighted decibels for a stated period of time which contains the same acoustic energy as the actual time-varying sound level for the same period of time.

[(8)] (15) "Existing Industrial or Commercial Noise Source" means any Industrial or Commercial Noise Source for which installation or construction was commenced prior to January 1, 1975.

[(9)] (16) "Farm Tractor" means any Motor Vehicle designed primarily for use in agricultural operations for drawing or operating plows, mowing machines, or other implements of husbandry.

[(10)] (17) "Impulse Sound" means either a single pressure peak or a single burst (multiple pressure peaks) for a duration of less than one second as measured on a peak unweighted sound pressure measuring instrument.

[(11)] (18) "In-Use Motor Vehicle" means any Motor Vehicle which is not a New Motor Vehicle.

[(12)] (19) "Industrial or Commercial Noise Source" means that source of noise which generates Industrial or Commercial Noise Levels.

[(13)] (20) "Industrial or Commercial Noise Levels" means those noises generated by a combination of equipment, facilities, operations, or activities employed in the production, storage, handling, sale, purchase, exchange, or maintenance of a product, commodity, or service and those noise levels generated in the storage or disposal of waste products.

[(14)] (21) "Motorcycle" means any Motor Vehicle, except Farm Tractors, designed to travel on not more than three wheels which are in contact with the ground.

[(15)] (22) "Motor Vehicle" means any vehicle which is, or is designed to be self-propelled or is designed or used for transporting persons or property. This definition excludes airplanes, but includes water craft.

(23) "New Airport" means any airport for which installation, construction, or expansion of a runway commenced after January 1, 1980.

[(16)] (24) "New Industrial or Commercial Noise Source" means any Industrial or Commercial Noise Source for which installation or construction was commenced after January 1, 1975 on a site not previously occupied by the industrial or commercial noise source in question.

[(17)] (25) "New Motor Vehicle" means a Motor Vehicle whose equitable or legal title has never been transferred to a Person who in good faith purchases the New Motor Vehicle for purposes other than resale. The model year of such vehicle shall be the year so specified by the manufacturer, or if not so specified, the calendar year in which the new motor vehicle was manufactured.

(26) "Noise Impact Boundary" means a contour around the airport, any point on which is equal to the airport noise criterion.

[(18)] (27) "Noise Level" means weighted Sound Pressure Level measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA.

[(19)] (28) "Noise Sensitive Property" means real property [on, or in, which people normally sleep, or on which exist facilities] normally used for sleeping, or normally used [by people] as schools, churches, hospitals or public libraries. Property used in industrial or agricultural activities is not [defined to be] Noise Sensitive Property unless it meets the above criteria in more than an incidental manner.

[(20)] (29) "Octave Band Sound Pressure Level" means the sound pressure level for the sound being measured within the specified octave band. The reference pressure is 20 micropascals (20 micronewtons per square meter).

[(21)] (30) "Off-Road Recreational Vehicle" means any Motor Vehicle, including water craft, used off Public Roads for recreational purposes. When a Road Vehicle is operated off-road, the vehicle shall be considered an Off-Road Recreational Vehicle if it is being operated for recreational purposes.

[(22)] (31) "One-Third Octave Band Sound Pressure Level" means the sound pressure level for the sound being measured within the specified one-third octave band at the Preferred Frequencies. The reference pressure is 20 micropascals (20 micronewtons per square meter).

[(23)] (32) "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.

[(24)] (33) "Preferred Frequencies" means those mean frequencies in Hertz preferred for acoustical measurements which for this purpose shall consist of the following set of values: 20, 25, 31.5, 40, 50, 63, 80, 100, 125, 160, 200, 250, 315, 400, 500, 630, 800, 1000, 1250, 1600, 2000, 2500, 3150, 4000, 5000, 6300, 8000, 10,000, 12,500.

[(25)] (34) "Previously Unused Industrial or Commercial Site" means property which has not been used by any industrial or commercial noise source during the 20 years immediately preceding commencement of construction of a new industrial or commercial source on that property. Agricultural activities and silvicultural activities of an incidental nature shall not be considered as industrial or commercial operations for the purposes of this definition.

[(26)] (35) "Propulsion Noise" means that noise created in the propulsion of a Motor Vehicle. This includes, but is not limited to, exhaust system noise, induction system noise, tire noise, cooling system noise, aerodynamic noise and, where appropriate in the test procedure, braking system noise. This does not include noise created by Road Vehicle Auxiliary Equipment such as power take-offs and compressors.

[(27)] (36) "Public Roads" means any street, alley, road, highway, freeway, thoroughfare, or section thereof in this state used by the public or dedicated or appropriated to public use.

[(28)] (37) "Quiet Area" means any land or facility designated by the Commission as an appropriate area where the qualities of serenity, tranquility, and quiet are of extraordinary significance and serve an important public need, such as, without being limited to, a wilderness area, national park, state park, game reserve, wildlife breeding area or amphitheater. The Department shall submit areas suggested by the

public as Quiet Areas, to the Commission, with the Department's recommendation.

[(29)] (38) "Racing Events" means any competition using Motor Vehicles, conducted under a permit issued by the governmental authority having jursidiction, or, if such permit is not required, under the auspices of a recognized sanctioning body. This definition includes, but is not limited to, events on the surface of land and water.

[(30)] (39) "Racing Vehicle" means any Motor Vehicle that is designed to be used exclusively in Racing Events.

[(31)] (40) "Road Vehicle" means any Motor Vehicle registered for use on Public Roads, including any attached trailing vehicles.

[(32)] (41) "Road Vehicle Auxiliary Equipment" means those mechanical devices which are built in or attached to a Road Vehicle and are used primarily for the handling or storage of products in that Motor Vehicle. This includes, but is not limited to, refrigeration units, compressors, compactors, chippers, power lifts, mixers, pumps, blowers, and other mechanical devices.

[(33)] (42) "Sound Pressure Level" (SPL) means 20 times the logarithm to the base 10 of the ratio of the root-mean-square pressure of the sound to the reference pressure. SPL is given in decibels (dB). The reference pressure is 20 micropascals (20 micronewtons per square meter).

[(34)] (43) "Statistical Noise Level" means the Noise Level which is equalled or exceeded a stated percentage of the time. An L_{10} = 65 dBA implies that in any hour of the day 65 dBA can be equalled or exceeded only 10% of the time, or for 6 minutes.

[(35)] (44) "Warning Device" means any device which signals an unsafe or potentially dangerous situation.

All New Material

Material added subsequent to the October 19, 1979 Commission Meeting is *italicized*.

Material deleted subsequent to the October 19, 1979 Commission Meeting is ~~stricken~~.

35-045 NOISE CONTROL REGULATIONS FOR AIRPORTS.

(1) Statement of Purpose. The Commission finds that noise pollution caused by Oregon airports threatens the public health and welfare of citizens residing in the vicinity of airports. To mitigate airport noise impacts a coordinated statewide program is desirable to ensure that effective Airport Noise Abatement Programs are developed and implemented where needed. An abatement program includes measures to prevent the creation of new noise impacts or the expansion of existing noise impacts to the extent necessary and practicable. Each abatement program will primarily focus on airport operational measures to prevent increased, and to lessen existing, noise levels. The program will also analyze the effects of aircraft noise emission regulations and land use controls.

The principal goal of an airport proprietor who may be required to develop an Airport Noise Abatement program under this rule should be to reduce noise impacts caused by aircraft operations, and to address in an appropriate manner the conflicts which occur within the higher noise contours.

The Airport Noise Criterion is established to define a perimeter for study and for noise sensitive use planning purposes. It is recognized that some or many means of addressing aircraft/airport noise at the Airport Noise Criterion Level may be beyond the control of the airport proprietor. It is therefore necessary that abatement programs be developed, *whenever possible*, with the cooperation of federal, state and local governments to ensure that all potential noise abatement measures are fully evaluated.

This rule is designed to ~~cause~~ *encourage* the airport proprietor, aircraft operator, and government at all levels to cooperate to prevent and diminish noise and its impacts. These ends may be accomplished by encouraging compatible land uses and controlling and reducing the airport/aircraft noise impacts on communities in the vicinity of airports to acceptable levels.

(2) Airport Noise Criterion. The criterion for airport noise is an Annual Average Day-Night Airport Noise Level of 55 dBA. The Airport Noise Criterion is not designed to be a standard for imposing liability or any other legal obligation except as specifically designated within this Section.

(3) Airport Noise Impact Boundary.

(a) Existing Air Carrier Airports. Within twelve months of the adoption of this rule, the proprietor of any existing Air Carrier Airport shall submit for Department approval, the *existing* airport Noise Impact Boundary. *The data and analysis used to determine the boundary and the field verification shall also be submitted to the Department for evaluation.*

(b) Existing Non-Air Carrier Airports. After an unsuccessful effort to resolve a noise problem pursuant to ~~Section~~ *subsection* (5), the Director may require the proprietor of any existing non-air carrier airport to submit for Department approval, all information reasonably necessary for the calculation of the *existing* airport Noise Impact Boundary. This information is specified in the Department's Airport Noise Control Procedure Manual (NPCS-37), as approved by the Commission. The proprietor shall submit the required information within twelve months of receipt of the Director's written notification.

(c) New Airports. Prior to the construction or operation of any New Airport, the proprietor shall submit for Department approval the projected airport Noise Impact Boundary for the first full calendar year of operation. The data and analysis used to determine the boundary shall also be submitted to the Department for evaluation.

~~(c)~~ *(d)* Airport Master Planning. Any airport proprietor who obtains funding to develop an Airport Master Plan shall *submit* ~~analyze the noise impact of the airport using the Airport Noise Criterion and shall submit the analysis~~ for Department approval *an existing noise impact boundary and projected noise impact boundaries at five, ten, and twenty years into the future. The data and analysis used to determine the boundaries and the field verification shall also be submitted to the Department for evaluation.*

~~(d)~~ *(e)* Impact Boundary Approval. Within 60 days of the receipt of a completed airport noise impact boundary, the Department shall either consider the boundary approved or provide written notification to the airport proprietor of deficiencies in the analysis.

(4) Airport Noise Abatement Program and Methodology.

~~(a) New Airports. The proprietor of any New Airport shall, prior to construction or operation, submit a proposed Airport Noise Abatement Program for Commission approval.~~

~~(b) Existing Airports.~~

(a) Abatement Program. The proprietor of an existing *or new* airport whose airport Noise Impact Boundary includes Noise Sensitive Property, or may include Noise Sensitive Property, shall submit a proposed Airport Noise Abatement Program for Commission approval within 12 months of notification, in writing, by the Director. The Director shall give such notification when he *the Commission* has reasonable cause to believe that an abatement program is necessary to protect the

health, safety or welfare of the public following a public informational hearing on the question of such necessity. Reasonable cause shall be based upon a determination that: 1) Present or planned airport operations cause or may cause noise impacts that interfere with noise sensitive use activities such as communication and sleep to the extent that the public health, safety or welfare is threatened; ~~and~~ 2) These noise impacts will occur on property presently used for noise sensitive purposes, or where noise sensitive use is permitted by zone or comprehensive plan; *and 3) It appears likely that a feasible noise abatement program may be developed.*

~~(c)~~ *(b)* Program Elements. An Airport Noise Abatement Program shall consist of all of the following elements, but if it is determined by the Department that any element will not aid the development of the program, it maybe excluded.

(A) Maps of the airport and its environs, and supplemental information, providing:

(i) Projected airport noise contours from the Noise Impact Boundary to the airport property line in 5 dBA increments under current year of operations and at periods of five, ten, and twenty years into the future with proposed operational noise control measures designated in subsection (4)~~(c)~~*(b)*(B);

(ii) All existing Noise Sensitive Property within the airport Noise Impact Boundary;

(iii) Present zoning and comprehensive land use plan permitted uses and related policies;

(iv) Physical layout of the airport including the size and location of the runways, taxiways, maintenance and parking areas;

(v) Location of present and proposed future flight tracks;

(vi) Number of aircraft flight operations used in the calculation of the airport noise levels. This information shall be characterized by flight track, aircraft type, flight operation, number of daytime and nighttime operations, and takeoff weight of commercial jet transports.

(B) An airport operational plan designed to reduce airport noise impacts at Noise Sensitive Property to the Airport Noise Criterion to the greatest extent practicable. The plan shall include an evaluation of the appropriateness and effectiveness of the following noise abatement operations by estimating potential reductions in the airport Noise Impact Boundary and numbers of Noise Sensitive Properties impacted within the boundary, incorporating such options to the fullest extent practicable into any proposed Airport Noise Abatement Program:

(i) Takeoff and landing noise abatement procedures such as thrust reduction or maximum climb on takeoff;

(ii) Preferential and priority runway use systems;

(iii) Modification in approach and departure flight tracks;

(iv) Rotational runway use systems;

(v) Higher glide slope angles and glide slope intercept altitudes on approach;

(vi) Dispaced runway thresholds;

(vii) Limitations on the operation of a particular type or class of aircraft, based upon aircraft noise emission characteristics;

(viii) Limitations on operations at certain hours of the day;

(ix) Limitations on the number of operations per day or year;

(x) Establishment of landing fees based on aircraft noise emission characteristics or time of day;

(xi) Rescheduling of operations by aircraft type or time of day;

(xii) Shifting operations to neighboring airports;

(xiii) Location of engine run-up areas;

(xiv) Times when engine run-up for maintenance can be done;

(xv) Acquisition of noise suppressing equipment and construction of physical barriers for the purpose of reducing aircraft noise impact;

(xvi) Development of new runways or extended runways that would shift noise away from populated areas or reduce the noise impact within the Airport Noise Impact Boundary.

(C) A proposed land use and development control plan, and evidence of good faith efforts by the proprietor to obtain its approval, to protect the area within the airport Noise Impact Boundary from enroachment by non-compatible noise sensitive uses and to resolve conflicts with existing unprotected noise sensitive uses within the boundary. The Plan is not intended to be a community-wide comprehensive plan; it should be airport-specific, and should be of a scope appropriate to the size of the airport facility and the nature of the land uses in the immediate area. Affected local governments shall have an opportunity to participate in the development of the plan, and any written comments offered by an affected local government shall be made available to the Commission. The Department shall review the comprehensive land use plan of the affected local governments to ensure that reasonable policies have been adopted recognizing the local government's responsibility to support the proprietor's efforts to protect the public from excessive airport noise. ~~Appropriate actions under the plan may include:~~ *The plan may include the following actions within the specified noise impact zones:*

(i) Changes in land use through non-noise sensitive zoning and revision of comprehensive plans, *within the Noise Impact Boundary (55 dBA);*

(ii) Influencing land use through the programing of public improvement projects *within the Noise Impact Boundary (55 dBA);*

(iii) Purchase assurance programs *within the 65 dBA boundary;*

(iv) Voluntary relocation programs *within the 65 dBA boundary;*

(v) Soundproofing programs *within the 65 dBA boundary, or within the Noise Impact Boundary (55 dBA) if the governmental entity with land use planning responsibility desires, and will play a major role in implementation.*

(vi) Purchase of land for airport use *within the 65 dBA boundary;*

(vii) Purchase of land for airport related uses *within the 65 dBA boundary;*

(viii) Purchase of land for non-noise sensitive public use *within the Noise Impact Boundary (55 dBA);*

(ix) Purchase of land for resale for airport noise compatible purposes *within the 65 dBA boundary;*

(x) Noise impact disclosure to purchaser *within the Noise Impact Boundary (55 dBA);*

(xi) Modifications to Uniform State Building Code for areas of airport noise impact *within the Noise Impact Boundary (55 dBA).*

(c) Federal Aviation Administration Concurrence. The proprietor shall use good faith efforts to obtain concurrence or approval for any portions of the proposed Airport Noise Abatement Program for which the airport proprietor believes that Federal Aviation Administration concurrence or approval is required.

Documentation of each such effort and a written statement from FAA containing its response shall be made available to the Commission.

(d) Commission Approval. Not later than twelve months after notification by the Director pursuant to subsection (4)(a), the proprietor shall submit a proposed Airport Noise Abatement Program to the Commission for approval. Upon approval, the abatement program shall have the force and effect of an order of the Commission. The Commission may direct the Department to distribute copies of the approved abatement program to interested federal, state and local governments, and to other interested persons, and may direct the Department to undertake such monitoring or compliance assurance work as the Commission deems necessary to ensure compliance with the terms of its order. The Commission shall base its approval or disapproval of a proposed Noise Abatement Program upon:

(A) The completeness of the information provided;

(B) The comprehensiveness and reasonableness of the proprietor's evaluation of the operational plan elements listed under subsection (4)(b)(B);

(C) The presence of an implementation scheme for the operational plan elements, to the extent feasible;

(D) The comprehensiveness and reasonableness of the proprietor's evaluation of land use and development plan elements listed under subsection (4)(b)(C);

(E) Evidence of good faith efforts to adopt the land use and development plan, or obtain its adoption by the responsible governmental body, to the extent feasible;

(F) The nature and magnitude of existing and potential noise impacts;

(G) Testimony of interested and affected persons; and

(H) Any other relevant factors.

~~(d)~~ *(e)* Program Renewal. No later than six (6) months prior to the end of a five year period following the Commission's approval, each current airport Noise Abatement Program shall be reviewed and revised by the proprietor, as necessary, and submitted to the Commission for consideration for renewal.

~~(e)~~ *(f)* Program Revisions. If the Director determines that circumstances warrant a program revision prior to the scheduled five (5) year review, the Airport Proprietor shall submit to the Commission a revised program within twelve (12) months of written notification by the Director. The Director shall make such determination based upon an expansion of airport capacity, increase in use, change in the types or mix of various aircraft utilizing the airport, *or changes in land use and development in the impact area that were unforeseen in earlier abatement plans*. Any program revision is subject to all requirements of this rule.

(5) Consultation. The Director shall consult with the airport proprietor, members of the public, the Oregon departments of Transportation, Land Conservation and Development and any affected local government in an effort to resolve informally a noise problem prior to issuing a notification under Subsection (3)(b), (4)(a), and (4)~~(e)~~*(f)* of this section.

(6) Noise Sensitive Use Deviations. The airport noise criterion is designed to provide adequate protection of noise sensitive uses based upon out-of-doors airport noise levels. Certain noise sensitive use classes may be acceptable within

the airport Noise Impact Boundary if all measures necessary to protect interior activities are taken.

(7) Airport Noise Monitoring. Every mathematical model used to calculate a noise contour or Noise Impact Boundary shall be verified by field measurements which are submitted to the Department.

(8) Exceptions. Upon written request from the Airport Proprietor, the Department may authorize exceptions to this Section, pursuant to rule 340-35-010, for:

(a) unusual or infrequent events;

(b) noise sensitive property owned or controlled by the airport;

(c) noise sensitive property located on land zoned exclusively for industrial or commercial use.

(Existing Materials)

35-100 VARIANCES.

(1) Conditions for Granting. The Commission may grant specific variances from the particular requirements of any rule, regulation, or order to such specific persons or class of persons or such specific noise source upon such conditions as it may deem necessary to protect the public health and welfare, if it finds that strict compliance with such rule, regulation, or order is inappropriate because of conditions beyond the control of the persons granted variance or because of special circumstances which would render strict compliance unreasonable or impractical due to special physical conditions or cause, or because strict compliance would result in substantial curtailment or closing down of a business, plant, or operation, or because no other alternative facility or method of handling is

yet available. Such variances may be limited in time.

(2) Procedure for Requesting. Any person requesting a variance shall make his request in writing to the Department for consideration by the Commission and shall state in a concise manner the facts to show cause why such variance should be granted.

(3) Revocation or Modification. A variance granted may be revoked or modified by the Commission after a public hearing held upon not less than 20 days notice. Such notice shall be served upon the holder of the variance by certified mail and all persons who have filed with the Commission a written request for such notification.

DEPARTMENT OF ENVIRONMENTAL QUALITY

AIRPORT

NOISE CONTROL

PROCEDURE

MANUAL

PROPOSED

JULY 1979

NPCS-37

TABLE OF CONTENTS

CHAPTER 1

INTRODUCTION

1.1 Policy

1.1.1 This manual contains the procedural information required for compliance with OAR 340-35-045, Noise Control Regulations for Airports.

1.1.2 Chapter 2 describes the information required by the Department for calculating a Noise Impact Boundary for non air carrier airports. The chapter identifies the amount and nature of information that will normally be needed by the Department for making accurate calculations. In unusual circumstances additional information may be required. It is the Department's policy to perform the Noise Impact Boundary calculations to avoid placing an onerous burden upon smaller airport facilities or proprietors, and any additional information will be requested with cognizance of this policy.

1.2 Authority

1.2.1 This procedure manual is to be used pursuant to ORS chapter 467 and OAR 340-35-045.

CHAPTER 2

AIRPORT NOISE CONTOURS

2.1 Scope. This Chapter describes the information needed by the Department for calculating an airport noise impact boundary pursuant to OAR 340-35-045(3)(b). The Chapter applies to general aviation airports that have the following characteristics:

1. Primarily used by small single and twin engine propeller aircraft;
2. May have small numbers of business jets using the airport;
3. May have occasional large propeller or jet aircraft operating at the airport;
4. No helicopter or military aircraft activity.

2.1.1 For complex airport situations that differ from the above description, it may be necessary to use alternate programs to predict airport noise levels. The information needed for these programs may be in addition to the information discussed in this Chapter.

2.2 Definition of Terms.

2.2.1 Day Time Hours - 7 am to 10 pm local time.

2.2.2 Flight Operation - A takeoff or landing.

2.2.3 Flight Track - An aircraft flight pattern projected onto the ground. A runway may have one or more flight tracks which may vary with the type of aircraft.

2.2.4 Night Time Hours - 10 pm to 7 am local time.

2.2.5 Runway Landing Threshold - The first point on the runway available or suitable for landings. For most runways the landing threshold coincides with the physical beginning of the runway.

2.2.6 Start of Takeoff Roll - The point on the runway from which an aircraft starts its departure down the runway for takeoff, sometimes called the brake release point.

2.3 Maps. Airport maps containing the following information are needed:

2.3.1 The physical layout of the airport including the lengths of the runways and location of taxi-ways, maintenance and parking areas. Maps should be accurately scaled.

2.3.2 The location of all Start of Take Off Roll points and Runway Landing Thresholds.

2.3.3 Terrain contours for all major features (i.e., mountains, hills, canyons) within 1 mile radius of ends of runways.

2.3.4 Location of all flight tracks.

2.3.5 Location and type of all noise sensitive properties within 1 mile radius of ends of runways.

2.3.6 Location and type of land use zones within 1 mile radius of ends of runways.

2.4 Flight Operational Data. **The number of *existing* flight operations averaged on a yearly basis shall be provided, broken down by the following characteristics:**

2.4.1 Flight track;

2.4.2 Aircraft type;

2.4.3 Type of flight operation;

2.4.4 The average number of daytime operations per day;

2.4.5 The average number of nighttime operations per day.

2.5 Special Information. Depending on the complexity of the airport, additional special information may be needed, such as:

2.5.1 For take off of large commercial jet transports, the average distance to next aircraft fuel stop (this will relate to take off weight);

2.5.2 Description of special take off or landing procedures;

2.5.3 The ratio of turbo jet to turbo fan business jets.

2.6 Sources of Information. The following sources of information may help in locating the needed airport data:

2.6.1 Maps:

a. FAA Form 5010 or replacement "FAA Airport Master Record".

b. Instrument approach procedures published by National Ocean Survey C 44, Riverdale, MD 20840, and by Jeppesen and Company, 8025 E. 40th Ave., Denver, Colorado 80207.

c. U.S. Coast and Geodetic Survey Maps.

2.6.2 Flight Tracks (For the typical light aircraft flight pattern see the FAA model.)

2.6.3. Aircraft Operations:

a. FAA tower records;

b. "Official Airline Guide" published by Reubin H. Donnelly Corp., 2000 Clearwater Drive, Oak Brook, Illinois 60521.

Appendix C
Agenda Item
November 16, 1979
EQC Meeting

Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item J , October 19, 1979, EQC Meeting

Proposed Adoption of Noise Control Regulations for Airports, OAR 340-35-045; Amended Definitions, 340-35-015 and Airport Noise Control Procedure Manual, NPCS - 37.

BACKGROUND

Nature of Problem

As early as 1971 airport and aircraft noise was identified by the Oregon Legislature as an area appropriate for Commission regulation. A statewide survey conducted by the Department in 1972 indicated that Oregon citizens felt the airport noise problem should be addressed through state rules if federal controls were not effective.

The Department has received citizen complaints regarding aircraft and airport noise since the noise control program was established. Most complaints are from operations at the larger airports, and describe excessive noise impacting a resident's ability to communicate and sleep, but in several instances vigorous opposition to aircraft operations at very small airports has been referred to the Department.

An attitudinal survey recently conducted near the Portland airport by an independent research organization showed the public residing in the "vicinity area" rated noise from aircraft a problem second only to "property taxes" and more serious than "crime". The "vicinity area" residents were exposed to airport noise ranging from approximately Ldn 50 to Ldn 70 with a weighted average of approximately Ldn 60 decibels.

In October, 1978, the Environmental Quality Commission was petitioned by the Oregon Environmental Council and members of the public to include airports within existing noise control rules. The Commission determined that airport noise would not be best controlled by an expansion of existing rules, and directed staff to draft rules specifically designed to address airport/aircraft noise.

At the February EQC meeting, draft rules were submitted. The Commission directed staff to conduct informational hearings and to meet with interested parties to gather input on the need for rule promulgation and to solicit testimony on the

staff's draft rule. During April, hearings were held in Pendleton, Salem, Medford and Portland, and staff consulted with various federal, state and local officials to solicit information. Portions of the draft rule were revised as a result of the information received during this process.

In May the Commission authorized the Department to hold public hearings on the revised draft rule, entitled Proposed Noise Control Regulations for Airports. Hearings were held at the following locations and times:

Bend	August 7	7 pm
Eugene	August 9	7 pm
Portland	August 16	7 pm

The hearing record remained open for additional written comments until September 1 at the request of several interested parties.

Overview of Proposed Rule

The purpose of the proposed rule is to provide a mechanism for addressing existing airport noise problems and to implement preventative measures to address potential problems.

The seven air carrier airports would be required to develop a noise impact boundary (Ldn 55 decibel contour) within twelve months of rule adoption. Then, if it is shown that a problem exists, and that an airport noise abatement program would be beneficial, the airport may be required to initiate the development of a program. The airport noise abatement program would contain an airport operational control plan and a land use and development plan, and would be brought to the Commission for final approval.

After it is shown that a problem exists at a non-air carrier airport, the proprietor would be required to provide data to the Department, so that Department staff could calculate the airport noise impact boundary. As with the larger airports, the abatement program would only then be required if need were to be shown.

Any new or modified airport would develop an abatement program to ensure that land use and development would be compatible with the airport.

Any airport noise problem brought to the Department's attention would be the subject of an informal resolution process. The Director would consult with all affected parties to attempt to resolve the problem prior to requiring any noise abatement program development.

Federal Activity

Federal action to reduce airport and aircraft noise has realized limited benefit. The Federal Aviation Administration has established noise emission standards for newly manufactured aircraft, but large numbers of older, noisy, aircraft will remain in the national transportation system for some years. An FAA regulation designed to quiet the present commercial fleet requires the fleet to meet specific emission limits by 1985 either by replacement with new, quiet aircraft, or by retrofit of existing aircraft with sound reduction equipment. Two bills now before Congress, S 413 and HR 3942, would provide open-ended waivers and exemptions to the 1985 compliance deadline. Most of the airline industry supports this legislation as public funding has not been identified to replace or retrofit the non-complying aircraft.

The federal Environmental Protection Agency has limited authority to regulate airport and aircraft noise; its statutory role is to advise and recommend regulations to FAA. In an Airport Noise Abatement regulation proposed to FAA by EPA in 1976, EPA identified three primary factors responsible for airport noise problems: (1) the introduction of jets into the air carrier fleet in 1959, (2) airport encroachment by neighboring communities, and (3) airport expansion and operational increases and changes. The proposed EPA rule would have required all air carrier airports to develop and implement noise abatement plans, with the scope of the rule expanding to cover general aviation at a later date. All land exposed to aircraft noise levels in excess of Ldn 55 decibels would be within the study area of an abatement plan. The EPA proposal was published in the Federal Register on November 22, 1976, but FAA has taken no formal action toward the adoption or rejection of this proposal.

Local Activity

Approximately 30 Oregon airports have adopted airport master plans, many of which include an analysis of the impact of aircraft noise on the surrounding communities. However, these plans do not address noise impacts in a manner that will ensure that preventative and corrective actions will be taken. Federal support is available to develop noise control and land use compatibility plans, but no Oregon airports have developed these voluntary noise control plans. Master planning effort is continuing with approximately 13 airports now in the process of developing plans.

Oregon Airports

Oregon has 336 airports and heliports. Of these, 117 are open for public use; the remaining 219 are special purpose facilities such as heliports and small private strips. The State Aeronautics Division owns 37 airports while 41 are owned by municipalities. Most of the smaller strips are privately owned, and a few of the larger general aviation airports are also privately owned.

The Aeronautics Division classification system designates public-use airports in Classes A through D, with a fifth category called "landing strip". Class D includes the seven air carrier airports that have commercial air service with high numbers of total operations including business jets. (Eugene, Klamath Falls, Medford, Pendleton, Portland International, Redmond and Salem.) Class C contains those airports with moderate to high numbers of operations (approximately 50,000 to 200,000 annually) including business jets and heavy twin engine aircraft. Approximately fifteen airports are in this category, including Hillsboro, Aurora and Bend. Class B are those general aviation facilities that have a moderate number of aircraft operations (approximately 10,000 to 50,000 annually) including light twin engine and few or no business jet activity. Included in this category are Independence, Hood River, Scappoose and approximately 27 airports. Class A airports are those with low number of operations of mostly single engine craft. Approximately 30 facilities are in this category, including Seaside, Cascade Locks and Arlington. The "landing strip" category contains approximately 80 public-use facilities. These strips are normally not paved and do not have fueling and maintenance facilities. Most of these strips have operations of less than 2000 annually.

The approximately 220 remaining airports from the 336 total are the non public-use facilities such as heliports and private strips with very low numbers of operations.

A review of airport ownership has found that most major public-use facilities are publicly owned. Of the 43 airports with annual operations greater than 10,000, approximately six are privately owned. The remainder are owned by city or county government, the State Aeronautics Division, and Port Districts. Examples of major privately owned airports are Mulino in Clackamas County and Sunriver in Deschutes County.

SUMMARY OF TESTIMONY

In general, testimony received from the noise-impacted public was supportive of the proposed rule. Much of this testimony described the frustration of attempting to determine which agency is responsible for noise abatement. Airport proprietors often refer complaints to the FAA explaining that the federal government controls all flight activities at the airport, though the FAA does not provide any corrective action to resolve complaints. Testimony recommended that one agency have responsibility for controlling airport noise.

Several persons noted that airport proprietors had developed master plans projecting no increase in noise levels although the numbers of operations at the airport were projected to increase. The basis for this analysis is the FAA regulation requiring a quieter commercial fleet by 1985. Congress is considering two bills that would rescind the FAA regulation and testimony indicated public concern that the predicted decrease in individual aircraft emission levels will not be forthcoming.

Impacted citizens complained of interference with communication activities outside and inside their homes. Conversation is disrupted, telephone usage is hampered and leisure activities involving television and radio are disrupted, increasing the general annoyance of aircraft overflights. Instances of frightened children being awakened by noisy overflights were reported. Older people, more sensitive to sleep disturbance, complained of inability to sleep due to aircraft noise. A resident near the Hillsboro airport complained of business jet activities. She noted that the ambient noise level at night is approximately 20 decibels, but when a business jet departs, the noise increases to 98 decibels.

Recent changes in flight patterns have also resulted in citizen complaints. A group of citizens located in the Northwest hills of Portland complained that the Portland airport flight pattern toward the south passes directly over its homes, whereas in the past, the pattern appeared to allow the craft to gain more altitude flying west before heading south. Many residents that live closer to the Portland airport believe the aircraft are not flying the published flight paths or that flight paths could be modified to decrease impacts.

Several local jurisdictions were supportive of the preventative aspects of the proposal. They believe the proprietor should operate the airport in as quiet a manner as practicable while recognizing that land use controls implemented by the local jurisdiction will prevent future conflicts. They also believe the proprietor, who is responsible for airport noise, must have primary responsibility for the development of the airport land use compatibility plan.

During this rule development process, the Department has received approximately 82 complaints on airport noise. Many complaints are due to operations of the Portland airport, however other Oregon airports have been the source of complaints. Department files show complaints from the airports at Salem, Corvallis, Hillsboro, Troutdale, McMinnville, Sandy, Sunriver and Twin Oaks in Washington County. Complaints have also been received on proposed new airports in Clackamas and Washington Counties and at Junction City. The files also show complaints of amphibious operations on the Willamette River in Marion County and in Clackamas County.

Adverse testimony to the proposed rule generally came from airport proprietors and pilots. Many believed the scope of the rule was too broad in that it could impact any airport in Oregon. Although the rule is drafted to only address "problem" airports, the threat of regulation to any airport was not acceptable to those associated with smaller airports.

Testimony was offered that agreed that an airport operational plan be developed by the proprietor, however it was suggested that the airport land-use compatibility planning be the responsibility of local government.

The potential economic impact of the rule was also stressed in the testimony. It was suggested that the cost of development of an airport noise abatement plan and costs to implement any plan would be excessive. For example, the Port of Portland presented an analysis of a soundproofing program to insulate 4500 homes. The calculated cost of such a program was $21 million.

Testimony was offered expressing concern that sections of the proposed rule conflict with preemptive federal authority. The Oregon Aeronautics Division recommended that changes be made in the rule to allow FAA authority to approve any noise abatement plan. A proposal submitted by the Port of Portland would have included within the rule the FAA determination of what kinds of actions are appropriate for airport proprietors, and limiting responsibility under the rule to those actions. (This testimony, while taken directly from an FAA policy document, omitted portions of the document not in harmony with the Port's position.)

Concern was expressed over the proposed rule's Noise Impact Boundary. Some testimony was received suggesting that the boundary should be located at the Ldn 65, rather than the Department's proposed level of Ldn 55. Testimony submitted by the FAA suggested that the area between Ldn 55 and Ldn 65 should be studied on a case-by-case basis. FAA's concern was that abatement costs would require significant monies and that FAA is not aware of a source of funding for areas below Ldn 65 at this time.

EVALUATION

Procedural Highlights

The following provides a brief explanation of procedural requirements under the proposed rule. As proposed, the rule initially could be applied to any Oregon airport, however, those airports with small numbers of operations would only be affected by the voluntary informal resolution portion of the rule.

Initial activity under the proposed rule would occur twelve months after adoption. At that time, the seven current air carrier airports within the state would submit to the Department, a map, showing the airport facility and the noise impact boundary (Annual Average Ldn 55 noise contour).

Upon indication that a noise problem exists, or is likely to exist in the future at a non-air carrier airport, the Director would seek to informally resolve the problem in conjunction with other agencies and the affected parties. If the resolution process failed, the Director could require the proprietor to submit to the Department the information the Department would need to calculate the Noise Impact Boundary and to assess its impact.

An analysis of the noise impact of an airport relative to the Noise Criterion would be submitted pursuant to any master plan effort.

If the analysis of the Noise Impact Boundary, in conjunction with other available material, indicated that a major noise problem existed that might be resolvable, the Director would try to resolve the problem informally. If no resolution could be reached, the Director would hold a hearing on the question of need for a noise abatement program at the facility. If an affirmative determination was made, the proprietor would develop an abatement program consisting of three elements:

1. A map of the facility with existing and future noise contours;
2. An operational plan, in which the proprietor would analyze a number of possible abatement measures, and propose to implement those practicable;
3. A proposed land use and development control plan.

The program elements would be developed with participation of local government, affected state and federal agencies and the public in general. The proprietor would, if appropriate, recommend zone or comprehensive land use changes to the affected local government(s) and would seek concurrence from FAA on any operational control element for which concurrence would be necessary. The airport proprietor would bring the final noise abatement program to the Commission for adoption; programs would be renewed every five years, and a revision could be ordered at an earlier date by the Department if a change in use occurred at the facility.

Any noise contour or boundary prepared by computer would be verified by actual sound measurements.

Criteria

Staff believes the airport plan should address all area within a noise contour of Ldn 55 decibels described by airport operations. This "criterion" contour is determined by averaging annual operations, so for small general aviation airports the annual contour could be 5 to 10 decibels less than the worst day contour. Nonetheless, staff believes the annual average method is adequate to describe a gross impact area.

The Ldn 55 decibel level is approximately equivalent to the standards industry must now meet under the Commission rules for industrial and commercial noise sources. These rules are based upon a desire to provide adequate protection of public health, safety and welfare.

The FAA and the Oregon Aeronautics Division have recommended the rule be limited to areas within the Ldn 65 contour. FAA stated that abatement monies are only available to the Ldn 65 level at this time. It also stated that "the Ldn 55 contour as a study area is impractical in some cases" as airport noise may not be detectable above other noise sources. Staff believes anyone within the Ldn 55 contour will be impacted by aircraft noise. Even people residing near major freeways and impacted by significant freeway noise, will detect aircraft noise at the airport Ldn 55 decibel contour. The justification for ignoring airport noise because of high background noise is not supported by citizen complaints nor by field measurements. If noise caused by traffic impacts the front yard of a residence, then outdoor noise sensitive activities, such as a barbeque, normally are conducted in the backyard. In such cases the backyard is shielded from street noise and measured levels are 15 to 20 decibels lower. Aircraft noise will impact all portions of the noise sensitive property and no physical barrier can protect outdoor activities.

It is interesting to review the Oregon Aeronautics Division's document, Airport Compatibility Planning, published in 1978. The document recommends the use of a worst day Ldn 55 boundary for land use planning. The worst day contour may be 5 to 10 decibels greater than the proposed average day contour. The document also notes that "if community sensitivity to noise is unusually high, it may be desirable to develop a noise contour of less than Ldn 55 as the outer boundary of noise impacted area."

The Port of Portland, although concerned that the Ldn 55 level is too low to justify corrective action by the proprietor, retained the Ldn 55 level in its latest proposed amendments to the rule. The Port believes the proprietor's responsibility should end at the Ldn 65 contour and then the local land use jurisdiction must accept responsibility for airport noise. This position is partly based upon FAA funding policy that allows the proprietor to implement compatibility measures within the Ldn 65 contour.

The federal EPA has established in its "Levels" document, that an outdoor noise level of Ldn 55 decibels is protective of public health and welfare. With typical construction of homes, interior activities such as speech communication and sleep will be protected indoors using the Ldn 55 outdoors criteria. It should be noted that the EPA Ldn 55 decibel criteria is not a national ambient standard, nor can the cost of compliance justify reducing all sources of noise to this level. However, EPA has proposed to FAA an airport noise abatement regulation that uses the Ldn 55 criteria to define the gross study area.

The federal Department of Housing and Urban Development (HUD) has established environmental criteria and standards to be used for the development of housing with guaranteed federal loans. The HUD standards establish a minimum standard for federally guaranteed housing of Ldn 65 decibels. The Ldn 65 standard provides some marginal protection from excessive noise to residents of buildings constructed using HUD guaranteed mortgages, but it is clear that the HUD standard has been established to ensure only minimum protection from noise impacts. HUD has recently recongized Ldn 55 as an appropriate exterior noise goal.

Scope

Although suggestions have been made to limit the scope of the proposed rule at some arbitrary minimum operations level, support for these proposals appear to come from a concern over financial burdens that may be imposed on the smaller facilities. Additionally, the small facilities appear to generate only a small percentage of total airport noise complaints.

The proposed rule could only impact those airports that have been determined to have noise problems that could not be resolved using informal consultation methods. If no resolution is gained during the informal procedure, the Director could then notify a non-carrier airport to submit necessary information for the Department staff to calculate the Ldn 55 decibel noise impact boundary. If the boundary includes or may include noise sensitive uses, the Director could then require the preparation of a noise abatement plan. Criteria have been established for the Director to reach such a decision, and an informational hearing must be held to gather testimony on the need for a noise abatement plan.

The Department has resisted incorporating in the rule any language that would limit the scope of the rule at the outset of any noise abatement effort. The rule in its present form would not give the Director the authority to require a noise abatement program for any facility whose Ldn 55 contour did not, or was not likely to, encompass noise sensitive property, but those facilities could be involved in an informal resolution process. The Department feels the ability to include all sizes and types of aircraft facilities within the initial abatement and planning process is an important feature of the proposed rule.

Soundproofing/Interior Criteria

Although soundproofing was initially listed in the proposed rule as only one of several potential noise abatement options, this proposal received a great deal of attention and criticism. In response to requests from the Port of Portland to supply procedures for guidance in applying soundproofing programs, the Department developed detailed criteria and analysis procedures. These procedures in turn received strong criticism, and many persons testified that the rule would be improved by deleting that portion of the procedure manual.

The Department believes the procedure manual presented a reasonable approach to soundproofing, but certainly other techniques may be acceptable. It is probably appropriate for any proprietor interested in developing a soundproofing program to develop that program in whatever fashion he deems reasonable and allow the Commission to weigh its effectiveness and appropriateness. For that reason much of the materials dealing with soundproofing have been deleted from the proposed rule.

Testimony from the Aeronautics Division and from the City of Eugene suggested that an interior criterion might be appropriate instead of, or in addition to, the Ldn 55 outdoor criterion. Certainly a complex procedure could be developed that would identify annoying aircraft levels more accurately than an annual average Ldn 55. The Department believes, however, that an interior criterion, or an additional outdoor criterion, would create far more confusion and complexity than could be justified.

Economic Issues

The Department has received comments that the proposed rule would impose severe economic burden on airport proprietors and others involved in the implementation of an airport noise abatement program. Staff evaluation of testimony and investigation of the economic issue conclude that the costs associated with the proposed rule do not outweigh potential benefits. Evaluation of specific economic issues provides the following comments.

a) The cost to develop the airport Noise Impact Boundary (Ldn 55) has been estimated to be as high as $40,000 for one of the smaller air-carrier airports. Staff contacted a local consulting firm requesting an estimate of costs to produce this analysis. It estimated that if all input data to the mathematical model were provided, the boundary could be developed for approximately $500. If the consultant conducted the analysis without the proprietor's assistance in gathering input data, the cost could be as high as $10,000.

   A Seattle based acoustical consultant was also contacted for an estimate. He assumed that the airport proprietor would provide some limited assistance in developing input data. For a single runway operation with air-carrier operations, the cost of analysis was estimated at $2400. In the case of an air-carrier airport with cross-wind runway, the cost was estimated at $5000. If the airport did not have jet operations, costs would be reduced by 33 percent.

b) The proposed rule could result in an abatement program that would provide soundproofing as a means to achieve acceptable interior noise levels. (It should be noted that soundproofing programs are only referenced in the proposed rule as an appropriate action the plan may include. This mitigation method is not a requirement of the rule, and would only be included if the airport proprietor decides such a program is warranted.) Testimony was provided that indicated soundproofing cost for an average house of 1500 square feet was $3.00 per square foot for a 5 decibel reduction, or $0.60 per square foot per decibel. Staff analysis of a study conducted for the City of Los Angeles on a home soundproofing pilot project near LA International Airport showed costs of $2.10 per square foot for a 10 decibel reduction, or $0.21 per square foot per decibel.

c) An economic analysis conducted for the U.S. Department of Transportation determined the effects of airport noise on the market value of residences. This study used data gathered near seven major U.S. airports, including San Francisco, Boston, New Orleans and San Diego. The result of this study indicates that homes located within an Ldn 55 decibel airport contour suffer a market value reduction of 0.5 percent per decibel above the 55 decibel threshold. For the typical used Portland home located at an airport noise contour of 65 decibels, the market value would be $3500 less than for a similar home not exposed to excessive airport noise.

d) Those concerned with the potential cost of implementation of this proposed rule may have overlooked the provisions provided in the Oregon Noise Control Act. ORS § 467.060 provides for Commission granted variances to requirements of any rule for reasons including economic impact. This section of the statute is implemented in an adopted rule under OAR 340-35-100, which is included in the proposed rule attachment as reference information.

e) Staff has not attempted to analyze the economic impact of excessive airport noise on the public's health and welfare. Testimony from those impacted by airport noise complained of the impact of noise on their ability to sleep and communicate. These typical measures of noise impact are acknowledged as indicators of degree of protection, however, there are no technical studies on the costs of these impacts to the public.

f) A cost that has been ignored by airport proprietors in their testimony is the cost of litigation for suits filed by public impacted by excessive airport noise. As most **public-use airports in Oregon are publicly owned, these costs are passed on to the general** public. Information on these costs are difficult to obtain as policy for some proprietors is to resolve such suits out-of-court.

Land Use Planning

Even though an airport proprietor may limit noise impacts from the operations at his facility only to a certain extent, it is now clear that he is responsible for the consequences of those impacts. Air Transportation Association v. Crotti 389 F. Supp 58 (N.D. Cal., 1975), National Aviation v. City of Hayward, 418 F. Supp 417 (N.D. Cal., 1976). The Federal Aviation Administration, in its November 18, 1976, Aviation Noise Abatement Policy is cognizant of the burden placed upon proprietors to control noise impacts, and clearly indicates that the proprietor should play an affirmative role in helping to determine appropriate land uses near an airport facility.

> The airport proprietor is closest to the noise problem, with the best understanding of both local conditions, needs and desires, and the requirements of the air carriers and others that use his airport.* * * What constitutes appropriate land use control action depends on the proprietor's jurisdiction to control or influence land use. This of course, varies with airport location. Almost all airport proprietors, however, are public agencies with a voice in the affairs and decisions of their respective communities. In some instances they have land use control jurisdiction and are required to document how they will exercise it before receiving federal airport development funds. In other instances, where they lack such direct control, before receiving federal airport development funds they are required to demonstrate that they have used their best efforts to assure proper zoning or the implementation of other appropriate land use controls near the airport and will continue to do so. Although the airport proprietor may not have zoning authority, he is often the local party in the best position to assess the need for it and press the responsible officials into action. (Aviation Noise Abatement Policy, FAA, November 18, 1976, at 50-51.)

The Oregon Department of Transportation Aeronautics Division uses similar language to recognize the lead role of the proprietor in planning for compatible uses around an airport. (Airport Compatibility Planning, ODOT, Aeronautics Division, 1978, at 10.)

Proposed Rule section 35-045 (3)(c)(C), describes what is required in the proprietor's land use and development control plan. Some concern has been expressed that through this element the Department is attempting to shift the traditional responsibility for land use planning from local government to the airport proprietor. Land use planning is the responsibility of local governments, and that role is clearly spelled out on ORS chapter 197. The proposed rule follows the lead of the above cited documents in giving the airport proprietor the responsibility for the initial analysis of the noise impacts from his facility and for implementing those elements of the plan within his control.

Although this proposed rule would have no direct affect on local governments as planning entities, the rule indicates a commitment by the Department to review comprehensive plans with an awareness of Statewide Planning Goal #6 as it applies to this rule.

Federal Preemption

The Federal Aviation Administration has extensive authority to control the use and management of navigable airspace and air traffic. To the extent that FAA has exercised this authority by promulgating regulations, state and local authorities do not have power to regulate.

It is generally agreed by the courts that the scope of FAA preemption presently covers areas where local regulations create an undue burden on interstate commerce, where regulations pose a threat to the safety of the public, and where regulations set maximum single event standards for aircraft. Although a moderate amount of litigation on each of these points has occurred over the past few years, the precise nature of these restrictions on the power of state and local governments to act is still unclear. FAA's policy documents indicate that some kinds of operational controls may not be imposed by an airport proprietor without FAA concurrence, but FAA has declined to set specific policy with respect to some areas, and FAA's position in areas where it has set specific policy has not been universally supported by the courts.

Some concern has been expressed that the proposed rule may place an airport proprietor in a position of having to try to comply with requirements of the FAA and the Department when those requirements are conflicting. To prevent that possibility, the Aeronautics Division has suggested that the Department incorporate wording in the proposed rule that would require an airport proprietor to receive FAA approval on any proposed plan before that plan is brought to the Commission.

The proposed rule requires the proprietor to seek a response from FAA on any portion of a program for which the proprietor believes that a response is necessary. It also requires a proprietor to use good faith efforts to obtain FAA concurrence on any portion of the plan for which he believes that FAA concurrence is necessary for legal implementation. Incorporation of the wording of the rule suggested by Aeronautics would preclude the proprietor from bringing before the Commission any plan or portion of a plan for which FAA has not given

concurrence. The present wording of the rule would help ensure that the Commission would be apprised of FAA's posture on any proposed program at the time it was brought before the Commission for approval. On the other hand, it would not foreclose a proprietor from bringing before the Commission a program that the proprietor believed acceptable, regardless of FAA's posture.

Given the reluctance of FAA to clarify its precise authority on an informal basis, it seems desirable to retain wording in the proposed rule that will present as much information to the Commission as possible, without foreclosing possible noise abatement plan alternatives. If any issue concerning federal preemption arises in the context of a specific plan, the Commission could reach its decision based upon the facts of the specific instance.

Modifications to Proposal Subsequent to Hearings

The proposed rule has been modified subsequent to the public hearings. These amendments reflect information gained during the hearings process and are outlined below:

1. Definitions for various classes of noise sensitive property have been deleted. Staff has deleted the noise sensitive use guidelines for various classes of sensitivity as adequate guidelines have been published by the Oregon Aeronautics Division in its land use compatibility document.

2. The definition for noise sensitive property has been amended to include hospitals as a noise sensitive use (Definition 28).

3. The definition for "sound level reduction" has been deleted as the guidelines for sound insulation have been deleted due to their complexity. Staff believes that any proposed sound insulation program developed within a noise abatement plan need not be burdened by Commission guidelines for a determination of adequate sound insulation. If such programs are developed, the Commission may evaluate each on a case-by-case basis.

4. The Statement of Purpose subsection (1) has been amended in the first paragraph to state that the Commission finds airport noise threatens the public health and welfare rather than finding that airport noise may threaten public health and welfare. The second paragraph has been amended to replace the phrase "shrink noise contours" with "reduce noise impacts" as noise impacts may be reduced without shrinking contours and the reduction of noise impact is the primary goal of the rule. Other minor wording changes have been incorporated to add clarity.

5. Part (a) "New Airport", of subsection (3) has been deleted. The deleted subsection (3)(a), required the development of a noise impact boundary, however, subsection (4)(a) requires the preparation of a noise abatement program, including a noise impact boundary.

6. Parts (3)(b) and (3)(c) have been transposed to improve clarity. Part (3)(b) has been reworded to make clear that the Director's notification is given only after an informal attempt to resolve a problem has failed.

6. A new subsection (3)(d) "Impact Boundary Approval" has been added to ensure that prompt action of the Department will be taken to approve a noise impact boundary analysis.

7. Changes have been made to part (4)(b) to set out standards for the Director to use in making a determination of need for a noise abatement program. The determination may be based upon either projected operational or physical plans or upon anticipated land use of impacted areas.

8. Part (A) of subsection (4)(c) has been amended to reflect comments that this section was poorly organized, difficult to follow, and not complete.

9. Part (C) of subsection (4)(c) has been amended to add clarity to the land use element of the abatement program. Emphasis has been added to ensure the land use plan is to be airport specific and not community-wide. Further clarification was added to reference that the Department intends to review the Comprehensive Land Use Plans of affected jurisdictions to ensure that they have taken appropriate actions in light of the proprietor's land use recommendations and the Commission's adoption of an airport noise abatement program. An additional appropriate land use action was added to the list; item (xi) would allow modifications to the State Uniform Building Code for noise insulation measures within airport noise impact zones.

10. Subsection (5) has been amended to add the airport proprietor and members of the public to those the Director would consult to seek an informal resolution of an airport noise problem.

11. Subsection (6) has been amended to delete the specific noise insulation guidelines for various noise sensitive use classes. As explained above, existing Aeronautics Division guidelines are adequate and any proposed insulation program may be assessed on a case-by-case basis.

12. Old subsection (7) Sound Level Reduction Determination has been deleted as this section is no longer required due to the amendments deleting noise insulation guidelines.

13. New subsection (7) Airport Noise Monitoring, has been amended in order to simplify this requirement but retain a needed verification requirement.

14. The procedure manual has been amended as required by the above rule amendments. Chapters 3 and 4 have been deleted in their entirety.

ALTERNATIVES

Staff has evaluated various alternatives that may be considered amendments to the proposed rule, or alternatives considered by the Department.

1. A great deal of information was presented to the Department showing that past analyses of airport noise has focused on contours of Ldn 60 or Ldn 65. Some additional plan development costs can be expected from requiring an Ldn 55 contour. There seems little question, however, that focusing on the higher contour levels limits any planning or abatement process to the more severe impacts. If the information developed by the analyses mandated under the proposed rule is to be of any real value, it must include considerations at noise levels less than "severe".

   Most of the larger airports within the state have already developed airport master plans that include contours to the Ldn 60, and many of the smaller airports would not have an Ldn 60 that extends beyond the confines of the airport. It is the Department's view that the proposed rule would be redundant, and would not yield noise abatement relief sufficient to justify cost of implementation, unless noise analyses extend to the Ldn 55.

2. The proposed rule could impact any Oregon airport, and proprietors of small airports and heliports believe they should be exempted outright from the rule's scope. If the rule were limited to airports in excess of 10,000 annual operations, 43 airports could be impacted by the rule. Although these larger airports in all liklihood would constitute the greater portion of the facilities that generate noise problems, the Department would be powerless to address any kind of noise conflict at one of the smaller, exempt facilities. The Ldn 55 criterion level restricts the scope of the rule to only those airports causing noise impacts, and staff does not believe any further limitation of scope is necessary to protect small airport facilities from unreasonable economic or administrative hardship.

3. Comments were received that indicated that the "airport noise problem", if it really exists, is being adequately resolved by the federal FAA, the Oregon Aeronautics Division and the airport proprietors. Staff has found, through public testimony, that the various agencies controlling and promoting aviation have not been responsive to public complaints of excessive noise. The public believes that the noise issue should be addressed by an agency whose primary goal is to protect the public health, safety and welfare. The Department believes that rulemaking is appropriate to provide mitigation relief and preventative actions toward airport noise impacts.

SUMMATION

Drawing from the background and evaluation presented in this report, the following facts and conclusions are offered:

1. The airport/aircraft noise impacted public is frustrated with the response that federal, state and local government has taken toward its complaints.

2. The claim that aircraft noise is decreasing due to Federal aircraft noise emission controls may not be valid as pending Congressional action would provide open-ended waivers and exemptions to the present schedule.

3. There is no indication that any federal regulation, or other federal action to reduce airport/aircraft noise, is forthcoming.

4. Although many Oregon airports have completed airport master plans, this process does not adequately address noise impacts nor provide meaningful solutions.

5. The proposed rule has the following significant features:

   a) An informal resolution process for noise problems at an airport or heliport of any size is provided. Airports with minimal operations would not be regulated under the substantive portions of the rule;

   b) All seven air carrier airports must prepare a noise impact boundary analysis within twelve months of rule adoption. Cost for this development has been estimated between $500 and $10,000.

   c) If unresolved problems exist at any non-air carrier airport, Department staff would prepare the Noise Impact Boundary, with assistance from the proprietor in developing needed information.

   d) If an impact boundary analysis verifies that a noise problem exists, and if, after a public hearing the need for an abatement program is shown, an airport noise program must be developed for Commission approval within twelve months.

   e) An abatement program would include projected noise contours, an airport operational plan to reduce noise impacts, and a recommended land use and development plan.

6. The airport proprietor has been legally held responsible for noise impacts to the surrounding community.

7. The airport proprietor is the entity with the knowledge and understanding requisite for developing an operational noise abatement plan.

8. Federal and state guidelines agree that the airport proprietor is best able to develop and recommend a land use and development plan for the area surrounding the airport.

9. An airport noise criteria of an annual average Ldn 55 decibels is consistent with federal and state guidelines and with other Commission standards.

10. Any criteria in excess of Ldn 55 would render the proposed rule useless for for airport noise abatement, noncompatible land use mitigation and preventative development control purposes.

11. Although many small airports will not produce noise levels in excess of the Ldn 55 criteria, the proposed informal resolution procedures warrant the inclusion of all airports within the scope of the rule.

12. Any soundproofing plan proposed in a specific noise abatement program would be evaluated by the Commission on a case-by-case basis for consistency with acceptable guidelines.

13. Soundproofing costs have been estimated at a minimum of $0.21 to a maximum of $0.60 per square foot per decibel of reduction. Although these costs may appear to be excessive, such mitigation is optional and should only be proposed in an abatement program when benefits exceed costs and funding mechanisms are identified.

14. The loss to market value of homes exposed to airport noise was estimated at 0.5 percent per decibel above Ldn 55. Typical Portland residences exposed to Ldn 65 would thus have a market value reduction of $3500 per home.

15. Costs attributed to public health impacts and those resulting from civil nuisance litigation have not been assessed.

DIRECTOR'S RECOMMENDATION

Based on the Summation, it is recommended that the Commission take action as follows:

1. Adopt Attachment A hereto as its final Statement of Need for Rulemaking.
2. Adopt Attachment B hereto as a permanent rule to become effective upon its prompt filing, along with the Statement of Need, with the Secretary of State. Attachment B includes:
   a) Proposed Amended Definitions, OAR 340-35-015.
   b) Proposed Noise Control Regulations for Airports, OAR 340-35-045.
   c) Proposed Airport Noise Control Procedure Manual, NPCS - 37.

Bill

WILLIAM H. YOUNG

John Hector/pw
(503)229-5989
October 4, 1979

Attachments
Appendix A - Statement of Need for Rulemaking
Appendix B - Proposed Rules:
a) Amendments to Definitions, OAR 340-35-015
b) Proposed Noise Control Regulations for Airports, OAR 340-35-045
c) Proposed Airport Noise Control Procedure Manual, NPCS - 37
Appendix C - Hearing Officer's Report

Appendix D
Agenda Item
November 16, 1979
EQC Meeting

Environmental Quality Commission

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

To: Environmental Quality Commission

From: Hearing Officer

Subject: Hearing Report: Hearings Regarding Proposed Adoption of Noise Control Regulations for Airports.

Background

OR. REV. STAT. 467.030 authorizes the Environmental Quality Commission to promulgate regulations to control aircraft noise, but some sounds generated by aircraft operations are exempt from existing Commission regulations (OAR 340-35-035(5)(j)).

At its meeting of May 25, 1979, the Commission authorized the Department to hold public hearings on a proposed rule that would increase the scope of the Department's regulations. Hearings were held at the following times and locations:

Bend	August 7	7 pm
Eugene	August 9	7 pm
Portland	August 16	7 pm

The record for these hearings was held open until September 1. Testimony received at the hearings, and written testimony submitted before that date is summarized below. Written testimony submitted subsequent to September 1 is attached.

Summary of Testimony

General comments subscribed to by several persons are set out in paragraph form below.

1. The various elements of the rule are to be applied when the Director has reasonable cause to believe that the elements are necessary to protect the public health, safety and welfare. Standards need to be set, and guidelines for the Director to use in applying the standards need to be determined.

Edward Rhodes (Pendleton Planning and Public Works Director)
Clifford Hudsick (The Port of Portland)
Michael M. Randolph (for the Corvallis Airport Commission)
John O'Brien (Manager, Sunriver Airport)
Ronald Patton (Menasha Corp.)

2. The Federal Aviation Administration and the Oregon Aeronautics Administration have guidelines for aircraft noise that are adequate. Present programs under their auspices, including masterplan development for many airports, make the proposed rule redundant. DEQ should not intervene in an area already heavily regulated.

Michael M. Randolph (Corvallis Airport Commission)
James T. Lussier (St. Charles Medical Center)
Thomas Benedict (Willamette Seaplane Base)
Ronald Patton (Menasha Corp.)
Doug Rosenberg (Port of Tillamook Bay)
Jerry Dilling (Flightcraft)
John S. Yodice (Aircraft Owners and Pilots Assn., Washington Counsel)
R. W. Shelby (Oregon Airport Managers Assn.)
John O'Brien (Manager, Sunriver Airport)

3. The Ldn 55 criterion of the proposed rule is too low; Ldn 65 would be more appropriate and would be more consistent with already completed planning efforts.

Michael Randolph (Corvallis Airport Commission)
John S. Yodice (AOPA, Washington Counsel)
Paul Burket (Administrator, Aeronautics Division, ODOT)
C. Gilbert Sperry (Oregon Pilots Assn. & Corvallis Airport Commission)

4. Smaller airport facilities are already aware of noise problems and are addressing the problems in a responsible manner. Noise from these facilities is a local problem and should be handled at the local level. The proposed rule does not distinguish between sizes of airports, and excessive regulation already places a significant economic burden on small facilities. The real noise problem is at Portland International Airport, and perhaps a few other large facilities.

Doug Rosenberg (Port of Tillamook Bay)
Donald R. and Jeanette Gabbert
Jerry Dilling (Flightcraft)
John S. Yodice (AOPA Washington Counsel)
James T. Lussier (St. Charles Medical Center)
H. E. Hollowell, Jr. (Willamette Falls Community Hospital)
Umatilla County Board of Commissioners
John O'Brien (Manager, Sunriver Airport)
Thomas Benedict (Willamette Seaplane Base)
Rod Stevens (Ashland Airport Commission)
R. W. Shelby (Oregon Airport Managers Assn.)
C. Gilbert Sperry (Oregon Pilots Assn. & Corvallis Airport Comm.)
Terry Connell (Manager, North Bend Municipal Airport)
Ronald Patton (Menasha Corp.)

5. Land use planning requirements for airport proprietors as described in the proposed rule are inappropriate. This activity should be left within the province of local governments.

Clifford Hudsick (The Port of Portland)
C. Gilbert Sperry (Oregon Pilots Assn. & Corvallis Airport Comm.)
Paul Burket (Administrator, Aeronautics Division, ODOT)

6. The proposed rule shows no cognizance of the economic issues that it raises and has not been accompanied by any cost/benefit analysis. The rule does not determine who has responsibility for paying the costs of the various proposed mitigation measures.

Clifford Hudsick (The Port of Portland)
Paul Burket (Administrator, Aeronautics Division, ODOT)
John O'Brien (Manager, Sunriver Airport)
Rod Stevens (Ashland Airport Commission)
R. W. Shelby (OAMA)

7. Mitigation measures proposed by the rule fall within the scope of the Federal Aviation Administration's preemptive regulatory authority. DEQ may find its rule legally invalid or the airport proprietors may be placed between two agencies with conflicting requirements.

Clifford Hudsick (The Port of Portland)
Paul Burket (Administrator, Aeronautics Division, ODOT)
C. Gilbert Sperry (OPA and Corvallis Airport Comm.)
John O'Brien (Manager, Sunriver Airport)
Thomas Benedict (Willamette Seaplane Base)

8. The Department stated in its staff report of May 25, 1979 that the procedure manual for the proposed rule would be available 30 days before public hearings on the rule. The procedure manual was distributed 2-3 weeks before the first scheduled hearing, and the complexity of the procedure manual does not allow adequate review in that time.

Paul Burket (Administrator, Aeronautics Division, ODOT)
Rod Stevens (Ashland Airport Comm.)
John O'Brien (Manager, Sunriver Airport)

9. The soundproofing guidelines are unclear, too complex, or inconsistent with existing guidelines. Soundproofing generally will not solve the noise problem [This viewpoint was offered by those who supported and those who opposed the proposed rule].

Ray Simonson (Home Builders Assn. of Metro Portland, and Oregon State Home Builders Assn.)
Clifford Hudsick (The Port of Portland)
Paul Burket (Administrator, Aeronautics Division, ODOT)
Jean Baker (Oregon Environmental Council)
Tim Farley, Redland
Annette Farmer, Portland

10. The proposed rule includes options that are unsafe operational practices, or that allow the pilot no margin of error.

Ronald Patton (Menasha Corp.)
Clifford Chaney (Chairman, Ashland Airport Comm.)

11. Noise impacts caused by aircraft significantly deteriorate the living environment of citizens and result in various kinds of effects, including awakening, speech interference, and interference with leisure activities, such as listening to television.

Gary Gregory, Portland
Jean Baker, Oregon Environmental Council
Lorna VanderZanden, Hillsboro
Mrs. Agnes Pratt, Portland
D. R. Mandich, Portland
Bruce Roberts (Argay Downs Homeowners Assoc.)
Richard Paul, Portland
Mrs. C. R. Hackworth, Portland
Dorothy C. Hensel, Portland
Mr. and Mrs. Craig Bodenhausen, Sunriver
Cecil A. Hall, Portland
Opal Payne, Portland
Elizabeth Moss, Portland
Lorene LaFave, Portland
Lenore F. Prior, Sherwood

12. The flight paths of PIA flights have changed in recent years to cause an increased noise problem. If overflights occured at the locations the flight tracks indicate, the problem would be lessened.

Bruce Roberts (Argay Downs Homeowners Assoc.)
Richard Paul, Portland
Cecil A. Hall, Portland
Dorothy C. Hensel, Portland

13. Agencies contacted concerning noise problems from aircraft have been unresponsive.

Bruce Roberts (Argay Downs Homeowners Assoc.)
Mrs. C. R. Hackworth, Portland
Cecil A. Hall, Portland
Dorothy C. Hensel, Portland

Other comments received are set out below:

Edward Rhodes (Director, Planning and Building, City of Pendleton) It will cost the City of Pendleton between $25,000 and $40,000 to do an Ldn 55 boundary. If DEQ has the expertise to develop a boundary for non-air carrier airports, that service should be made available to air carrier airports as well. The City of Pendleton would consider the rule acceptable if:

1. There were grant funds for boundaries.
2. The requirement for boundary submittal were extended to 24 months.
3. The exceptions listed under section 35-015 are considered independent.
4. Agricultural/industrial land surrounding an airport is granted an exception from the requirements of the rule.

Clifford Hudsick (The Port of Portland) The rule does not prevent encroachment of noise sensitive uses onto noise impacted property, yet makes the proprietor responsible for developing abatement techniques.

Paul Burket (Aeronautics Division, ODOT) The rule contains drafting flaws, including problems with clarity, redundancy, inconsistency and extraneous information.

Ronald Patton (Menasha Corp.) The Department chose to ignore the results of the previous hearings and is wasting taxpayers money. This seems to be a power play by DEQ to get more control. DEQ's track record for consistency and fairness has been extremely poor. The agency is interested in self-promotion, not the good of the people.

C. Gilbert Sperry (Oregon Pilots Assn.) [The proposed rule hasn't] changed since the last hearing. The problem that the rule tries to address doesn't exist.

R. W. Shelby (OAMA) OAMA would like groups to work together where problems exist. LCDC should ensure that proprietors get the protection they deserve from encroaching uses. Land banking should be revised and building codes should require soundproofing of new construction near airports. Those who reside near airports should share in the costs of solving noise problems. Wants staff response to some of the major issues raised at the hearings. (Preemption, cost of abatement, soundproofing feasibility, administration of the rule.)

Rod Stevens (Ashland Airport Comm.) Testimony at the earlier hearings was overwhelmingly againstthe rule, yet the Director put the rule forward without significant modifications. The Director's ability to make a resonable determination is highly questionable. The existence of a problem should be determined on the basis of fact, not complaints. The DEQ should sustain the burden of proof for the need of this regulation.

Thomas Benedict (Willamette Seaplane Base) Objects to the apparent lack of aviation expertise in the rules.

John O'Brien (Sunriver Airport) The procedure manual should have had the input of an aviation expert. Was the procedure manual adopted from highway standards? The U.S. District Court in California indicated the Santa Monica jet ban was unconstitutional. DEQ could be facing the same problem.

Terry Connell (North Bend Municipal Airport) Past testimony has had no effect. Feels like he is talking to a wall. The airport managers would like to be part of the community and work to help solve a noise problem and this approach doesn't allow that.

Clifford Chaney (Chairman, Ashland Airport Comm.) Has been familiar with noise abatement procedures since their inception, and many are unsafe. No one without expertise can say that a change in aircraft pattern is within the capabilities of the aircraft.

Jerry Dilling (Flightcraft) There has been little demonstrated need for the rule; complaints will always accompany aircraft operations. The military operations are outside the scope of the rules. Airports are vital to Oregon commerce and the proposed rule would inhibit that commerce.

Michael Randolph (Corvallis Airport Commission) Regulation at airports where there is no problem may result in a self-fulfilling prophesy that a problem is perceived when it did not exist before.

Rodney A. Aho (East Central Oregon Association of Counties - Transportation Committee) The Committee's primary concern is development of land use controls which would avoid land use conflicts. Also concerned that agricultural practices, such as crop dusting, may be curtailed. The Committee would support a rule that addresses problems after they exist.

John Brown (Ellingson Lumber) If the rules require expense to airport proprietors, the Company will be forced to deny the public use of the two airports it now owns serving Unity and Halfway.

Gary Gregory, Portland. The criteria of the Port of Portland's Masterplan are not quite being used. The Aeronautics Division and the Port deny having the authority to resolve the problem; DEQ deserves a chance to try. The proposed rule gives immediate relief to Portland and preventative relief for other airports.

Jean Baker (Oregon Environmental Council) The advisory voice of DEQ is insufficient to achieve the noise reduction goal. It should be made clear that the procedure manual refers to all airports and the exemption clause should be deleted. Provisions that allow delays and elimination of the regulations with political pressure should be deleted. Standards for abatement options should be added.

Deborah Yamamoto (U.S. Environmental Protection Agency) The proposed rule is similar to EPA's proposed rule. The rule is necessary because there is no history of voluntary reduction of noise by airport proprietors or success in noise control by federal agencies. Small airports also have problems that do not get addressed. The rule should provide for more public participation.

Annette Farmer, Portland. Disappointed that the first people to speak at the Portland public hearing were opposed to the rule. They got all the media coverage, and people watching the news programs will think no one is in favor of the rule. Many thousands of people in Oregon are affected by airport noise.

Cecil A. Hall, Portland. Noise reduction is a lower priority to FAA than reduction of fuel consumption.

David R. Seigneur (Director, Planning Division, Clackamas County) Specific provisions ensuring that local governments are adequately notified early on in any abatement process are needed. Interior noise levels criteria should assume open windows.

Richard Daniels (Multnomah County Planning Division) The responsibility given the proprietor in the proposed rule is appropriate. The rule should include provisions suggesting amendments to the Uniform Building Code that would alter soundproofing specifications.

Tim Farley, Redland. Jets at commercial facilities should be able to stay right on the flight tracks.

Hugh Parry of the Parry Company (representing the Port of Portland) The procedure manual dealing with soundproofing is not applicable to existing structures because much of the information required for calculations cannot be obtained. The calculations assume ideal absorption and other improper conditions.

Lorna VanderZanden, Hillsboro. Some suggestions for minimizing noise at Hillsboro include:

1. Eliminating military craft training flights at the facility.
2. No training instrument approaches should be allowed at night.
3. Aircraft should be required to take off from the end of the runway to keep as much noise as possible on the airport property.
4. Nighttime flights could be limited to single engine craft, or there could be a nighttime curfew.
5. Takeoffs should be fanned out so that the noise exposure is not borne by one area near the airport.

Terry Smith, Environmental Analyst, City of Eugene. A coordinated effort is needed to safeguard the public from excessive airport noise, but the rule does not meet that need. The rule should use a two-level approach, such as a primary standard of 65 Ldn to be attained at all noise sensitive property as rapidly as possible. A secondary level of Ldn 55 should be attained, if at all, after further research has shown a need.

An objective procedure for identification is needed, such as a non-attainment designation for airports with noise sensitive property exposed to projected Ldn 65 for years 1990 or 2000. This time differential would allow for adequate planning.

A body representing all facets of government and interested parties should be brought together by this process to develop the most cost-effective abatement strategy. This strategy would be presented for review, public hearings, and final approval by the Commission.

Cassette tape recordings of the hearings and all written testimony received prior to September 1 are available to the Commission. Written testimony submitted subsequent to September 1 and not summarized above is contained in Attachment 1.

Recommendation

Your Hearing Officer makes no recommendations in this matter.

Respectfully Submitted,

Wayne Cordes, Hearing Officer for Portland Hearing, August 16, 1979

Jerry Jensen, Hearing Officer for Bend Hearing, August 7, and Eugene Hearing, August 9, 1979

AIR LINE PILOTS ASSOCIATION
1625 MASSACHUSETTS AVENUE, N.W. □ WASHINGTON, D.C. 20036 □ (202) 797-4000

September 18, 1979

Mr. Paul E. Burket
Aeronautics Administrator
State of Oregon Aeronautics Division
3040 25th Street, S. E.
Salem, Oregon 97310

Dear Mr. Burket:

I appreciate your informing me of pending Oregon Department of Environmental Quality rulemaking on the subject of noise abatement, since this matter is of direct interest to the membership of the Air Line Pilots Association.

This Association has serious concern that the proposal is aimed at minimizing community noise through modification of aircraft operating techniques. Such an approach is unwise and can be unsafe due to imposition of requirements beyond the capabilities of the aircraft and crews. No mechanisms, other than arbitrary judgement, to assure analysis of noise abatement procedures for factors such as terrain clearance, noise benefits, and stall speed margins are included in this proposal. It is our experience that many jurisdictions have attempted to impose unrealistic performance limitations and have misled the public in promising significant noise benefits. Such actions have only created further discontent in communities and opposition from aircraft operators when the benefits proved to be impossible to bring about. All involved should understand that, until improved technology is generally available, there are only two FAA noise measures that are acceptable for transport aircraft:

1) FAR 91.85(c) describing flap usage limitations.
2) Advisory Circular 91-53 describing a takeoff noise abatement procedure.

To go beyond these measures involves pre-emption of Federal control of the National Air Transportation System, an action to which this Association is strongly opposed. Any state or local operating proposal must be carefully screened by pilots and the FAA for its safety implications.

The Air Line Pilots Association encourages local and state governments to intelligently utilize land surrounding airports to achieve noise compatibility and to carefully guard against the temptation to require unsafe manuevers by aircraft as a means of controlling aircraft noise. Further actions taken by state and local jurisdictions to restrict airport usage must be regarded as restrictions to air commerce and will undoubtedly bring about legal tests and diminution of air service witnin the state.

Sincerely,

J. J. O'Donnell, President

JJO'D/jc

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

NORTHWEST REGION
FAA BUILDING KING COUNTY INT'L AIRPORT
SEATTLE, WASHINGTON 98108

SEP 27 1979

Mr. William H. Young
Director, Oregon Department of
Environmental Quality
P.O. Box 1760
Portland, Oregon 92207

Dear Mr. Young:

We have completed our review of the proposed airport noise rule including formal coordination with the U.S. Environmental Protection Agency (EPA). This letter reflects substantial agreement but not an absolute consensus between the two agencies. As discussed with Mr. Hector on September 13, 1979, we offer the following comments to supplement our letter of August 31, 1979.

We encourage the State of Oregon to take an active role in planning for noise abatement at airports. EPA believes mandatory planning is necessary, although no decision has been made on this at the federal level. The requirement for such planning should be closely tailored to match the complexity of problems at any given airport. Likewise, the noise abatement plans which result should vary significantly depending on the type of airport and its problems.

The proposed rule should be rewritten to clarify the responsibilities of federal, state, and local agencies and the specific interagency coordination needed to effectively carry out noise reduction efforts. State and local agencies mandate most land use regulations. The Federal Aviation Administration (FAA) mandates most operational regulations. The proposed rule should detail a formal procedure through which all jurisdictions work together on noise abatement plans. The plans should incorporate both the land use and operational elements, and the necessary approvals at the federal, state, and local levels prior to adoption.

Of particular concern is that any operational procedures under FAA authority be approved by the FAA prior to adoption of the noise abatement plans.

If you have any questions on our comments, please feel free to contact this office.

Sincerely,

Robert O. Brown

ROBERT O. BROWN
Chief, Airports Division, ANW-600

cc: Paul Burket, Aeronautics Administrator, Oregon State DOT
Bill Shea, Director of Aviation, Port of Portland
Debbie Yamamoto, EPA
Chuck Stevens, Oregon State DOT
Robert Shelby, Airport Manager, Eugene, Oregon
Al Hampton, Airport Manager, Salem, Oregon
John Vlastelicia, EPA
Steve Starley, EPA, Washington, D.C.

Victor Atiyeh
Governor

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 , November 16, 1979, EQC Meeting

Proposed Adoption as Permanent Rules, temporary 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

Chapter 591 Oregon Laws 1979, (House Bill 2111), amended ORS 454.662 to provide for increased fees to be charged for subsurface sewage disposal variances; amended 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 hardship variances; provides for fee adjustment 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 Commission adopted temporary rules at its June 29, 1979, meeting, to be effective for 120 days after filing with the Secretary of State. Filing occurred July 25, 1979.

The Department has implemented the new fee schedule contained in the temporary rule. In addition, the Department's budget is predicated on the fees contained in this rule.

The rules taken to hearing are the same as the temporary rules with one minor amendment to reduce the fee for determination of existing system adequacy where no field visit is required.

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 for the Commission to adopt as permanent these temporary rules prior to their expiration on November 22, 1979.

A statement of need for rule making is attached (Attachment A). A public hearing was held on October 16, 1979. The hearing officer's report is attached (Attachment B).

Alternatives and Evaluation

Since the Department's budget for the next biennium is predicated on the fee schedule contained in this rule, there appears to be no practical alternative to adoption of these temporary rules as permanent rules.

The proposed rules are set forth in Attachment C.

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. Chapter 591 Oregon Laws 1979, (House Bill 2111), contains provisions that require adoption of new rules pertaining to subsurface fee schedules.

3. The Commission adopted temporary rules, effective July 25, 1979, which established new fee schedules. These temporary rules will expire on November 22, 1979, unless made permanent before that date.

4. The Department's budget is predicated on the new fee schedule.

5. A public hearing was conducted on October 16, 1979, without adverse comment.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission adopt as permanent rules the proposed rules, OAR 340-72-005 to 72-020 and 340-75-040 as set forth in Attachment C.

Bill

William H. Young

Attachments: Statement of Need for Rulemaking
Hearing Officer's Report
Proposed Rule, OAR 340-72-005 to 72-020 and 340-75-040

T. Jack Osborne:af
229-6218
Date: November 2, 1979
XA2051

ATTACHMENT "A"

STATEMENT OF NEED FOR RULEMAKING
November 16, 1979

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 Rule

Chapter 591 Oregon Laws 1979, (House Bill 2111), provides for increased fees for subsurface variances, permits, site evaluations, and services provided in the subsurface sewage disposal program. The Department's budget for this biennium is predicated on the maximum fees set forth in that legislation. In addition a number of the Department's contract county agents have adopted new, increased fee schedules based upon this legislation and the temporary rule adopted effective July 25, 1979. That rule will expire unless made permanent prior to November 22, 1979.

3. Principle Documents Relied Upon in This Rule Making

a. Chapter 591 Oregon Laws 1979, (House Bill 2111)

b. The Department of Environmental Quality's Biennial Budget, July 1, 1979 to June 30, 1981.

4. Fiscal Impact

The Department of Environmental Quality and its twenty-two contract counties will be impacted in a beneficial way by this rule. The Department's Biennial Budget is predicated on the increased fees contained in this rule. In addition, a number of contract counties are relying on the increased fees to support their costs of operating the subsurface sewage disposal program.

Members of the general public who utilize subsurface sewage disposal will be impacted by this rule. Costs for permits, evaluations, and services will be increased. To this extent, the rule will have an adverse impact on the public. The extent of the impact will depend upon which county the proposed sewage system would be installed.

Failure to adopt the rule to provide additional revenue will result in the Department having to curtail service in the subsurface program. Cutbacks in personnel would be necessary. The same would occur in the contract counties. It is likely that a number of counties would terminate the contract and return the program to the state of Oregon for operation.

Public Hearing

Hearing Officer's Report

Public Hearing to take testimony on the question of amending Environmental Quality Commission rules pertaining to fees to be charged in the subsurface sewage disposal program, in accordance with House Bill 2111, 1979 Legislative Session; Temporary Rules, OAR 340-72-005 to 72-020 and 340-75-040, to be made permanent.

Public Hearing convened at 10:00 a.m., October 16, 1979, Room 511, Department of Environmental Quality Headquarters, 522 Southwest Fifth Avenue, Portland.

Written Testimony: One letter was received, from Ms. Betty Ahern, a realtor from LaPine in Deschutes County. Ms. Ahern's letter contained a number of questions which have been answered. Copies of Ms. Ahern's letter and the reply are attached.

Ms. Ahern wished to bring to the attention of the Commission her concern for increased fees and the effect these fees have on the escalating costs of housing.

10:30 a.m. - No one having appeared to give oral testimony - Public Hearing adjourned.

T Jack Osborne

Hearing Officer

WR5085
r

PHONE 503 - 536-2252

Betty Ahern

52427 River Pine Road

LA PINE, OREGON 97739

RECREATION AND RETIREMENT ACRES AND HOMES

AES - in file
T-11 in file
9-28-79

September 21, 1979

RECEIVED
SEP 27 1979
Dept. of Environmental Qual.

Department of Environmental Quality
Box 1760
Portland, Oregon 97207

Attention: Jack Osborne

Re: Proposed Adoption of Fee Changes
Public Hearing - October 16, 1979

Gentlemen:

I have the following questions and objections regarding your proposed adoption of the new fee changes as outlined on the Notice of Public Hearing:

New Site Evaluation - $120.00: This will raise the fee $45.00 from the old fee of $75.00. When a party applies for their Septic Permit, will they have to pay the additional $45.00, above the $40.00 Permit fee, to bring the Site Evaluation fee up to the current amount? If this is the case, then I object on the grounds that the old fee of $75.00 has already been paid for work completed on the actual evaluation.

Evaluation of Existing System Adequacy - $40 to $10.00: Does this refer to cases where a mobile home is removed from a property with an existing septic system and a permit is required for the placement of another mobile home on this existing system? Please clarify.

Annual Evaluation of Alternative System - $40.00: This fee is qualified by the statement "where required". Please explain. Who is going to determine where and when this will be required, and what is the criteria basis?

Annual Evaluation of Temporary Mobile Home - $25.00: I can see no purpose in an annual evaluation if the septic system was properly installed by a licensed installer in the beginning.

I would like to bring to the Environmental Quality Commission's attention the fact that on a standard gravity-flow system the fees of $160.00 plus the requirement of backhoe services, at a cost of $50.00, bring the dollar outlay by a family to over $200.00, plus their time in processing the

PHONE 503 - 536-2252

Betty Ahern

52427 River Pine Road

LA PINE, OREGON 97739

RECREATION AND RETIREMENT ACRES AND HOMES

necessary applications. A system in our area costs less than $1000.00 for installation. Your fees and necessary preparations are over 20% of the cost. If all fees involved in obtaining low cost housing increase at the same rate, it will cause further removal of the possibility of home ownership for the working and retirement families.

I await your reply.

Sincerely,

Betty J. Ahern

BJA/vd

VICTOR ATIYEH
GOVERNOR

Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

MAILING ADDRESS: P.O. BOX 1760, PORTLAND, OREGON 97207

Betty Ahern
52427 River Pine Road
La Pine, OR 97739

Subject: Proposed Adoption of Fee Schedule
Public Hearing - October 16, 1979

The following are answers to questions contained in your letter of September 21, 1979:

1. The maximum fee that may be charged for a construction permit is $40. In the event a site evaluation was obtained at a fee less than $120, the $40 permit fee still holds.

   We agree with your position that the old site evaluation fee has paid for work already accomplished.

2. Evaluation of existing system adequacy would apply in situations where one mobile home replaces another mobile home. In the event field visits are required a $40 fee would be charged. If only office work is necessary the $10 fee would apply.

3. Annual evaulation of alternative system - $40.

   "Where required" means that annual evaluations of certain alternative systems may be required by rule of the Environmental Quality Commission. Whether annual evaulations are required will depend upon complexity of the particular system.

4. Annual evaluation of temporary mobile home - $25. This deals with the situation where a mobile home is attached to an existing sewer system that is serving another dwelling as well as the mobile home.

   In effect you have two dwellings attached to a sewer system designed to serve a single home. The system may become overloaded and fail.

I will bring to the attention of the Environmental Quality Commission your concerns for fee costs and the burden that these place on possible home ownership.

T. Jack Osborne
Supervisor
Subsurface & Alternative
Sewage Systems Section
Water Quality Division

TJO:o
XO2292

DEQ-2

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.

Fees for Permits, Licenses and Services

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, licenses and services in accordance with ORS 454.745:

Subsurface or Alternative Sewage Disposal System	Maximum Fee
New site evaluation; first lot	$120
Each additional lot evaluated while on site	$100
Construction installation permit (with favorable evaluation report)	$ 40
Alteration Permit	$ 25
Repair Permit	$ 25
Extension Permit	$ 25
Sewage Disposal Service Business License	$100
Pumper Truck Inspection	$ 25
Evaluation of Existing System Adequacy	[$ 40]
If Field Visit Required	$ 40
No Field Visit Required	$ 10
Annual Evaluation of Alternative System (where required)	$ 40
Annual Evaluation of Temporary Mobile Home	$ 25

(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.

(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 maximum 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.

(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.

(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 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.

Fees for Evaluation Reports

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

Method	Fee
Sewerage System	$10 first lot $30 maximum (three (3) or more lots)
Subsurface Sewage Disposal	$120 first lot, $100 each additional lot evaluated while on site.

(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.

340-75-040(1) To meet administrative expenses of hearings, except as provided in ORS 454.745(5), a nonrefundable fee of two hundred twenty-five (225) dollars shall accompany each application for a variance to be acted upon by the Department. The Department shall disburse 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 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: Bracketed [ ] material is deleted
Underlined ___ material is new

TJO:em

Victor Atiyeh
Governor

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: William H. Young, Director

SUBJECT: Agenda Item K, November 16, 1979, EQC Meeting

Request for Authorization to Conduct a Public Hearing on Clarifying the Emission Limits for Veneer Dryers in the Medford AQMA (OAR 340-30-010 and 020) and Adoption of the Proposed Clarifications as a Temporary Rule.

Background and Problem Statement

In establishing emission limits specific to the Medford-Ashland AQMA, the Commission adopted rules for veneer dryers (OAR 340-30-020) which included the non-AQMA emission limits by reference. Changes to specific sections of the non-AQMA rules were also made by reference. After adoption of the rules for Medford, the Department proposed and Commission adopted additional emission limits (non-AQMA) for wood fired veneer dryers. The additional limits were inserted in appropriate places in the non-AQMA rules for veneer dryers. The insertion of these new limits changed the subsection numbers and the Medford veneer dryers rules no longer meet the original intent of the rules.

The Department is requesting authorization to hold a public hearing to receive testimony on the proposed clarifications to the Medford-Ashland AQMA rules for veneer dryers. The Department also requests the Commission to adopt the proposal as temporary rules.

The Commission is authorized by ORS 468.295 to adopt rules limiting air contaminant emissions. ORS 183.335(5) authorizes the adoption of temporary rules for not more than 180 days.

Alternatives and Evaluation

The Department proposes to incorporate in the Medford-Ashland AQMA veneer dryer rules the emission limits, and definitions applicable in the original rule in Sections 340-30-010 and 340-30-020 rather than referencing the non-AQMA rules. This will separate the Medford-Ashland AQMA veneer dryer rules from the non-AQMA rules.

As the rules for veneer dryers in the Medford-Ashland AQMA now read, they are ambiguous and may be unenforceable. OAR 340-30-045 requires compliance with the veneer dryer emission limits by no later than January 1, 1980. These clarifications to the rules cannot be adopted before that date.

The control strategy for Medford requires significant capital outlays by industry for control equipment to meet these rules including the veneer dryer rule. It is important that the original intent of these rules be preserved so that control programs currently in progress and scheduled for completion by January 1, 1980, are not jeopardized.

Therefore the Department is requesting adoption of the proposed rules as temporary rules so that enforceable emission limits and compliance dates are in effect. The Department finds that for the above reasons, failure to adopt the proposed rules as temporary rules may result in serious prejudice against the operators of veneer dryers in the Medford area and the Department's control program.

The proposed rule changes will not alter the original requirements of the Medford-Ashland AQMA rules. The emission limits, compliance dates and definitions would not be changed.

Summation

1) The Department adopted emission limits and compliance schedules for the veneer dryers in the AQMA by referencing portions of existing veneer dryer rules for non-AQMA areas.

2) The Department adopted additional limits for wood fired veneer dryers outside the Medford-Ashland AQMA and in the process changed some subsection designations.

3) The change in the subsection designation in the non-AQMA rules made some portions of the Medford-Ashland AQMA rules meaningless.

4) The Department has requested authorization to hold public hearings on proposed changes to the Medford-Ashland AQMA veneer dryers rules which would restore the original intent of the rules and separate the non-AQMA and AQMA rules.

5) The Department has requested adoption of the proposed rules as temporary rules so as to preserve the Medford area control strategy, maintain enforceable emission limits and provide a consistent basis so industry can allocate funds to implement their control programs.

Failure to adopt these proposed rules as temporary rules may result in serious prejudice against the operators of veneer dryers in the Medford area the Department's control program.

Recommendation

Based upon the Summation, it is recommended that the Commission authorize a public hearing to take testimony on the proposed changes to the rules for veneer dryers in the Medford-Ashland AQMA (OAR 340-30-010 and 020). It is recommended that the Commission make a finding that failure to adopt these proposed rules as temporary rules may result in serious prejudice against the operators of veneer dryers in the Medford area and the Department's control program. Based upon these findings it is recommended that the proposed rules be adopted as temporary rules.

Bill

William H. Young
Director

Attachments: Draft Rule (OAR 340-30-010 and 020)
Statement of Need for Rulemaking

F.A.Skirvin:f
229-6414
October 28, 1979

AF3169

Proposed Rule

OAR 340-30-020 would be replaced as follows. The following definitions would be added to OAR 340-30-010.

Definitions

340-30-010 (13) "Department" means Department of Environmental Quality.

(14) "Emission" means a release into the outdoor atmosphere of air contaminants.

(15) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the Federal Government and any agencies thereof.

(16) "Veneer" means a single flat panel of wood not exceeding 1/4 inch in thickness formed by slicing or peeling from a log.

(17) "Opacity" means the degree to which an emission reduces transmission of light and obscures the view of an object in the background.

(18) "Fugitive emissions" means dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof not easily given to measurement, collection and treatment by conventional pollution control methods.

340-30-020 Veneer Dryer Emission Limitations

(1) No person shall operate any veneer dryer such that visible air contaminants emitted from any dryer stack or emission point exceed:

(a) A design opacity of 10%,

(b) An average operating opacity of 10%, and

(c) A maximum opacity of 20%.

Where the presence of uncombined water is the only reason for the failure to meet the above requirements, said requirements shall not apply.

(2) No person shall operate a veneer dryer unless:

(a) The owner or operator has submitted a program and time schedule for installing an emission control system which has been approved in writing by the Department as being capable of complying with subsection 340-30-020(1)(a), (b), and (c),

(b) The veneer dryer is equipped with an emission control system which has been approved in writing by the Department and is capable of complying with subsection 340-30-020(1), (b), and (c), or

(c) The owner or operator has demonstrated and the Department has agreed in writing that the dryer is capable of being operated and is operated in continuous compliance with subsection 340-30-020(1)(b), and (c).

(3) Each veneer dryer shall be maintained and operated at all times such that air contaminant generating processes and all contaminant control equipment shall be at full efficiency and effectiveness so that the emission of air contaminants is kept at the lowest practicable levels.

(4) No person shall willfully cause or permit the installation or use of any means, such as dilution, which, without resulting in a reduction in the total amount of air contaminants emitted, conceals an emission which would otherwise violate this rule.

(5) Where effective measures are not taken to minimize fugitive emissions, the Department may require that the equipment or structures in which processing, handling and storage are done, be tightly closed, modified, or operated in such a way that air contaminants are minimized, controlled, or removed before discharge to the open air.

(6) Air pollution control equipment installed to meet the opacity requirements of OAR 340-30-020(1) shall be designed such that the particulate collection efficiency can be practicably upgraded.

(7) Compliance with the emission limits in section (1) above shall be determined in accordance with the Department's Method 9 on file as of November 16, 1979.

EW:f

Am6349

The Commission is authorized by ORS 468.295 Air Purity Standards; Air Quality Standards to adopt rules limiting air contaminant emissions. The Commission is authorized by ORS 183.335 to adopt temporary rules for not longer than 180 days.

The emission limits and compliance schedules for veneer dryers in the Medford-Ashland AQMA were based upon existing regulations for dryers outside AQMA's. The Medford rules included the existing rules by reference. Subsequent changes in the non-AQMA rules inadvertently altered the intent of the Medford rules. Therefore it is necessary to restore the Medford rules as originally intended and adopted. The proposed changes to the rule will incorporate the language of the non-AQMA rule. The two rules will then be separate so that future changes can be made without impacting both rules.

The Department anticipates that some operators will request a variance from the Medford dryer rules because of control equipment delivery delays. Therefore the Department has requested the Commission to adopt the proposed changes as temporary rules because the current rules are ambiguous.

The Department has based the proposed temporary and permanent rules upon:

1) OAR 340-30-020 and 045
2) OAR 340-25-315
3) ORS 468.295
4) ORS 183.335

Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item L, November 16, 1979, EQC Meeting

Request for a Variance from OAR 340-35-035 for Log Loader Noise at Murphy Company - Myrtle Point Facility

Background and Problem

The Murphy Company owns and operates a veneer mill in Myrtle Point. This mill has had noise problems since 1976 that the Department has attempted to resolve.

In February 1979 the facility was found to exceed both daytime and nighttime standards for industrial noise sources. After a lengthy attempt to establish a compliance schedule, the Company requested a variance to allow operations exceeding the nighttime standards for 2 1/2 hours per day.

At the Commission's August 31, 1979 meeting, a variance was granted to allow operations to exceed the nighttime standards (but not the daytime standards) during the night periods of 6 am to 7 am and from 10 pm to 12:30 am, a total of 3 1/2 hours per day. This variance will expire July 1, 1981.

This variance was granted based upon the feasibility and operational difficulties of enclosing the outside conveyors which were needed to meet nighttime noise standards. Noise caused by two diesel powered log loaders causing daytime noise violations was requested to be included in the variance during the August EQC meeting. The Commission declined to make a special variance to the daytime noise limits for the log loaders at that meeting.

The Commission directed staff to continue to negotiate with the company for an acceptable schedule to achieve compliance with the daytime standards as soon as practicable. The Commission requested to be informed of this progress. A status report was presented at the September 21, 1979 EQC Breakfast Meeting.

At this time a compliance schedule has, in most part, been agreed to by the Department and the Company, except for the diesel log loaders. This schedule is incorporated in a stipulated consent order that was sent October 11, 1979 to be signed by the Company and the Commission.

The Department has continued to receive noise pollution complaints about the Murphy Company. The recent complaints noted that the source was operating outside the hours of 6 am to 12:30 am. The complainants reported that operation was between 4 am and 1 am. Staff from the Coos Bay Office performed a noise

survey on October 3, 1979. On that morning, plant operations started up between 4:30 and 5 am. By 5:05 am the plant appeared to be in full operation when noise emissions were sampled according to Departmental procedures. The results are shown here along with DEQ allowable nighttime noise limits.

	Murphy Company 10/3/79 5:00 am (dBA)	DEQ Night Noise Limits Under Murphy Variance (dBA) 12:30 am to 6 am
L_1	70	60
L_{10}	67	55
L_{50}	62	50

The L_{50} sound pressure level was dominated by the conveyors and other continuously operating equipment. The L_{10} and L_1 noise levels were caused by intermittent operations such as the chippers, cut-off saw and noisy chainsaws operating at the barker. It should be noted that the air blast noise from the kicker was greatly reduced because of a new muffler. There was also no significant activity with the two diesel log loaders during this sample. The Department notified Murphy Company of this violation in an October 17, 1979 letter. The complainants now report that company operations are within variance hours, however, chainsaws are used nearby during late evening hours.

Variance Request - Two Existing Log Loaders

On October 1, 1979 the Department received additional technical information and a new request for a variance for noise caused by the diesel powered mobile log loaders operated at the facility, as attached. This equipment causes both daytime and nighttime violations of the noise standards. The original company proposal for compliance estimated that noise control of this equipment could be successfully conducted at a local consulting firm that fabricates noise suppression kits for such mobile equipment. The Company now has contacted the equipment manufacturer in Illinois who has submitted additional information. This variance request was not brought to the Commission until this month because additional information was needed. To gain this information the Department has contacted several consultants who conduct noise reduction modifications to mobile diesel equipment similar to the Murphy Company equipment. Staff has also contacted the acoustical engineering staff of the equipment manufacturer in Illinois. Additional requested technical information has also been received from the Murphy Company's acoustical consultant, as attached. However, this response on behalf of the Murphy Company goes beyond the Department's request for information to the point of modifying the scope of the requested variance.

The Department understands that modifications to present equipment or new diesel equipment may not make it feasible to fully comply with nighttime noise standards, given the proximity of the Murphy Company to nearby residences. The Department views this variance and feasibility study as an opportunity to identify what equipment and equipment modifications are available to bring noise emissions from

diesel equipment on the Murphy property to their lowest practicable, feasible and economically reasonable level. The Murphy Company's consultant has proposed in his October 24, 1979 letter that the feasibility study determine the following:

1. If the industrial noise standards are practical for application to mobile diesel equipment;

2. If industrial equipment manufacturers should be required to publish noise data on mobile diesel equipment;

3. If the buyer or manufacturer is responsible for modifications to insure compliance, or should

4. The manufacturers and distributors of mobile diesel equipment be required to meet industrial/commercial environmental noise standards rather than those for licensed motor vehicles.

The Department does not believe these study elements are necessary or should be encouraged as part of the feasibility study to achieve compliance.

The consultants have stated that noise reductions of 15 dBA on this equipment are technically feasible. They also state that 8 to 13 dBA reduction are necessary for the log loaders to meet DEQ nighttime regulations. The consultant noted that the Caterpillar factory recommends against modifying stock units. The Department has contacted the acoustical engineer at Caterpillar which revealed the following conflicting information:

1. If noise reduction is required, Caterpillar recommends the equipment owner enlist the services of a local consultant for additional noise suppression on stock units.

2. The acoustical engineer noted that he contacts and cooperates with these consultants who modify diesel equipment. The engineer further noted two firms that he communicates with on a regular basis in the Portland area.

The Department concurs and supports the scope of the variance as discussed in a September 18, 1979 meeting with Murphy Company. The Company-requested variance would exempt the two existing diesel log loaders from the industrial noise control standards between 6 am to 12:30 am the following morning. This variance would be in effect until July 1, 1980. During the term of this variance, administrative controls would be placed on diesel loaders to minimize noise pollution impact on noise sensitive properties adjacent to the Murphy property from 6 am to 8 am and 8 pm to 12:30 am. These administrative conditions have tentatively been agreed upon.

By December 1, 1979, the Company would issue a bid for new equipment and/or modifications to their existing equipment that may comply with the noise standards. By April 1, 1980, a report by Murphy Company will be submitted to the Department on the results of the engineering feasibility study and new equipment costs. This should allow enough time to compile a progress report for the Commission, negotiate a compliance schedule for the loaders, place equipment orders or consider a new

variance before the July 1, 1980 expiration of the loader variance.

The Commission may grant such a variance under authority granted by statute in ORS 467.060 and in Commission rule OAR 340-35-100.

Alternatives and Evaluation

The Company believes a temporary variance should be granted as strict compliance may be "unreasonable, unduly burdensome or impractical.: A variance may be granted by the Commission for these reasons.

The Company's original analysis concluded that the log loader noise could be corrected at a cost of $6,000 ($3,000 per loader) , however, that analysis is now unacceptable to the Company. The original proposal was to have a local firm conduct retrofit modifications to the loaders, but that proposal has been withdrawn. The equipment manufacturer does produce a quieter loader in France that may not be suitable for USA use, nor achieve compliance at the Myrtle Point facility. The French equipment is $4,000 more expensive for the quiet option.

The citizen complaints of noise from the facility have referenced the log loaders as major offenders. This equipment, unlike the other noise sources, operate intermittently and therefore are distinguishable above the constant noise from other operations. The loaders also, as they are mobile, operate at various distances from the residences. Therefore, the noise levels at the impacted properties vary with the distance from an operating loader.

The Company has proposed interim administrative controls on the log loaders in order to reduce their impact. During the periods of 6 am to 8 am and 8 pm to 12:30 am the loader operations will be restricted to portions of the facility that cause less impact to near residences.

Alternatives the Commission may consider in this matter are:

1. Grant a variance for the two log loaders as requested, to exempt their noise from the noise rules between 6 am and 12:30 am the following morning until July 1, 1980. A feasibility report on how compliance will be achieved will be submitted by April 1, 1980. Administrative control of the location of loader operation would be required 8 pm to 12:30 am and 6 am to 8 am.

2. Require the log loaders to have noise control retrofit modifications by the local consulting firm as outlined in the original analysis by the Company.

3. Require the log loaders to fully comply with the noise standards by retrofit, replacement or non-operation within 60 days.

4. Deny this variance request, which would thus allow the loaders to exceed the nighttime standards between 6 am to 7 am and 10 pm to 12:30 am , but not allow exceedances of the daytime standards. This variance expires July 1, 1981, as provided by the Commission on August 31, 1979.

SUMMATION

The following facts and conclusions are offered:

1. The Murphy Company owns and operates a mill in Myrtle Point that exceeds Commission noise standards during the daytime (7 am - 10 pm) and nighttime.

2. Two diesel powered mobile log loaders contribute to daytime and nighttime noise violations.

3. A variance granted on August 31, 1979 exempted portions of the nighttime (6 am to 7 am and 10 pm to 12:30 am) from nighttime standards.

4. The log loaders were specifically excluded by the Commission and given no special consideration under the granted variance, thus daytime compliance was required.

5. A local consulting company designs, fabricates and installs noise retrofit modifications for diesel equipment including log loaders. These kits were proposed in the Company's original compliance plan. By September 18, 1979 the Company withdrew this proposal by the local noise reduction firm. Murphy Company claims the equipment manufacturer does not recommend noise reduction modifications; however, the Department found that this manufacturer consults with local noise reduction firms to assist their modification efforts.

6. Murphy Company does not believe that full compliance will be attained using new equipment from their current manufacturer source.

7. Log loader operations are a major source of noise complaints from this mill.

8. Since the Commission approved the variance from the nighttime noise standards for the Murphy Company on August 31, 1979, the Department has continued to receive noise complaints. In response to complaints about noise outside the 6 am to 12:30 am hours, Department staff visited nearby noise sensitive property at 5 am on October 3, 1979 and recorded a noise violation. The primary cause of this violation was mill operation, not diesel log loaders.

9. The Commission is authorized to grant variances from noise regulations under ORS 467.060, and OAR 340-35-100, provided that certain conditions are met. The Murphy Company is applying for a time limited variance. The basis is that strict compliance is "unreasonable, unduly burdensome or impractical."

10. The purpose of the requested variance is to determine if it is practical or feasible to meet the noise standards by modifying the existing equipment or by purchasing new equipment.

11. In the Department's opinion, Murphy Company should be granted a time limited variance to determine whether technology exists to attain strict compliance with the standards.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Murphy Company, Myrtle Point facility, be granted a variance from strict compliance with the noise standards between 6 am to 12:30 am the following morning due to operations of two

diesel log loaders until July 1, 1980. A feasibility study for compliance achievement is required by April 1, 1980. Operation of the loaders shall be limited as specified in Company's letter of September 25, 1979, between the hours of 8 pm to 12:30 am, and 6 am to 8 am.

Bill

WILLIAM H. YOUNG

John Hector/pw
(503)229-5989
November 1, 1979

Attachments

A - Murphy Company/Seton, Johnson & Odell
Variance Request of September 25, 1979

B - Murphy Company/Seton, Johnson & Odell
Supplemental Information of October 24, 1979

C - Notice of Violation Letter

D - Robinson Letter

Attachment A
Agenda Item L
November 16, 1979
EQC Meeting

seton, johnson & odell, inc.
consulting engineers

317 s.w. alder street
portland, oregon 97204
(503) 226-3921

September 25, 1979

Mr. William H. Young, Director
Department of Environmental Quality
P.O. Box 1760
Portland, Oregon 97207

cc: NPC
FM Bolton
CBBO

Re: NP-Coos County; Murphy Company-Myrtle Point

Dear Mr. Young:

On behalf of the Murphy Company, we are requesting a variance from the noise pollution standards for the mobile diesel equipment that presently operates in the log yard at the Myrtle Point Mill.

The variance request is based upon the conditions set forth in OAR Chapter 340, Section 35-100, that a variance may be granted if strict compliance is "...unreasonable, unduly burdensome or impractical."

In Kevin Murphy's letter to you of July 16, 1979, he discussed, on page 5, retrofit modifications to the diesel mobile units. This statement was made based upon information we provided to Mr. Murphy on a local consulting firm which fabricates noise suppression kits for stationary and mobile equipment. Since July, we have been in contact with the Caterpillar factory, the manufacturers of the equipment used by the Murphy Company. Mr. Doyal Long of the Peoria, Illinois plant advised Tom Arnold of SJO, during a phone conversation on 9/14/79, that Caterpillar

- has a design goal of 85 dbA @ 50 feet for U.S. manufactured units;
- does not manufacture a retrofit exterior noise suppression kit;
- does not endorse retrofit modifications by independent consultants;
- does manufacture in France a unit that meets French environmental noise regulation (80 dbA @ 7 meters);

- does not manufacture the French design units in the U.S.

The three main sources of exterior noise on mobile diesel equipment are:

- exhaust noise
- engine and transmission casing radiated noise
- radiator fan noise.

Abatement of each noise source was necessary for Caterpillar units to comply with the French environmental noise regulations. Briefly, Mr. Long described the following differences between the French and U.S. assembled units.

U.S.	French
standard muffler	residential quality muffler
open engine compartment	engine enclosed with Louvered side panels which allow minimum necessary outside air circulation enclosed belly pan beneath unit
standard radiator and fan	oversized radiator and redesigned fan which revolves slower yet with wider blades to move more air
standard engine mounts	vibration isolated mounting for engine

The maximum ambient operating temperature for the U.S. unit is 110°F, while the French unit is restricted to 90°F.

Table I compares the noise levels of the two units operating at Myrtle Point with the U.S. and French design levels. For comparison purposes, all noise levels are normalized to 50 feet. Also shown is the maximum allowable noise level for compliance to daytime and nighttime DEQ noise regulations.

TABLE I.
dbA Noise Levels
Diesel Mobile Equipment

Condition	Sound Level at 50'
Caterpillar U.S. design	85
Caterpillar French design	74
Existing unit 966C	79-80
Existing unit 950	75
DEQ daytime standard*	72
DEQ nighttime standard*	67

*assumes closest distance to noise sensitive property of 200 feet.

Both of the units operating at the Myrtle Point mill are equipped with residential quality mufflers. These were installed in late 1976 or early 1977 at the start of the noise complaints. The table shows that both units are operating quieter than the present Caterpillar U.S. design goals. The table also shows that an additional 7 db reduction below that attainable by the French design (for new manufactured equipment) would be necessary for compliance with DEQ nighttime noise regulations. The cost to Caterpillar to develop the French design, according to Mr. Long, was two years of an engineering department's design work. This cost is recovered by charging French customers $4,000 for the quiet design option.

The cost of modifications is not an issue in this variance request. The issue is whether or not it is practical or even feasible for DEQ noise regulations to be met by modifying the existing units or by purchasing new equipment.

Based upon the above information provided by Caterpillar, we request that a temporary variance for the existing mobile diesel equipment be granted to the Murphy Company. The temporary variance should extend through July 1, 1980. During this time, the Murphy Company will solicit additional opinions on compliance measures from other consultants, manufacturers and equipment dealers. To obtain information on new equipment, a request for bids on equipment specified to comply with the noise regulations will be let no later than November 1, 1979. The results of the engineering feasibility study and new equipment costs will be compiled and a report on the findings will be submitted to the Department by April 1, 1980. The Department's review of the study report will be used as a basis for recommending an extension or revoking the variance that expires on July 1, 1980.

If the temporary variance is granted, the Murphy Company has agreed to implement the following interim controls on diesel log loader operation to mitigate the present noise impact:

1. Diesel powered log yard equipment shall operate within restricted areas of the log yard between 6 am and 8 am and 8 pm to 12:30 am. From 8 am to 8 pm the log loaders will operate on any part of the Murphy Company log yard.

2. The restricted area shall be the middle and west side of the Murphy Company property. The diesel loaders may not operate near (or a specified distance from) noise sensitive property on the north and east sides of the Murphy Company outside of the 8 am to 8 pm hours.

3. Any other administrative or operational controls that will minimize noise impact from the diesel equipment will be implemented voluntarily during this interim period by the Murphy Company.

I trust that the provided information is complete and that the variance request and conditions are acceptable to the Department.

If you have any questions, please call.

Yours very truly,

F. Glen Odell, P.E.

FGO:dmr

Attachment B
Agenda Item L
November 16, 1979
EQC Meeting

seton, johnson & odell, inc.
consulting engineers

317 s.w. alder street
portland, oregon 97204
(503) 226-3921

October 24, 1979

Department of Environmental Quality
P.O. Box 1760
Portland, OR 97207

Attention: Mr. Gerald T. Wilson, Noise Section

Re: NP-The Murphy Company, Myrtle Point:
Variance Request Diesel Log Loaders

Dear Mr. Wilson:

On October 15, 1979, we received your letter requesting additional technical information regarding our request for a variance from noise pollution standards. The variance request was specific to two diesel powered log loaders operating at The Murphy Company, Myrtle Point Mill.

The variance request is based upon the conditions set forth in OAR Chapter 340, Section 35-100, that a variance may be granted if strict compliance is "...unreasonable, unduly burdensome or impractical."

In our September 25, 1979 letter to Mr. Young, we pointed out that at present we could not make a determination upon whether or not it is practical or even feasible for DEQ noise regulations to be met by modifying the existing units or by purchasing new equipment.

The September letter described the present state of the art for exterior noise abatement available through the Caterpillar factory. Table 1 in the letter also pointed out that a 3 to 8 db reduction in noise from the log loaders will be necessary to achieve compliance with DEQ daytime standards and that a 5 to 13 db reduction is necessary for compliance with nighttime standards.

We feel that temporary variance is justified, thereby permitting operation of the units, while a feasibility study is made to determine if noise abatement to mobile diesel equipment is practical to the degree necessary to comply

with DEQ industrial noise regulations. The variance would be contingent upon the implementation of the defined administrative controls for noise mitigation.

During the feasibility study, SJO will coordinate obtained technical data and knowledge with the DEQ staff. The ultimate purpose is to provide the DEQ with sufficient information to determine:

- if the industrial noise standards are practical for application to mobile diesel equipment
- if industrial equipment manufactures should be required to publish noise data on mobile diesel equipment
- if the buyer or manufacturer is responsible for modifications to insure compliance, or should
- the manufacturers and distributors of mobile diesel equipment be required to meet industrial/commercial environmental noise standards rather than those for licensed motor vehicles.

Based upon the knowledge and data obtained from the feasibility study, the Department should be able to address and resolve a noise problem consistent with virtually every mill operating within shouting distance of noise sensitive property.

The following discussion addresses the additional requested information described in your October 15, 1975 letter. For your reference, the attached Figures 1 and 2 are photographs of units 950 and 966C as operating during our acoustical study this spring.

Question: Are both the log loaders presently equipped with the following equipment (elaborate if necessary):

a. residential
b. cooling fan shrouds
c. engine compartment side covers
d. cooling fans designed for noise reduction.

Answer: a. Residential quality mufflers were purchased from Caterpillar Tractor Company after the initial noise investigation in 1976.

b. The radiator and fan system on each unit has not been modified from the original stock equipment. No fan shroud was apparent.

c. Approximately 2/3 of the engine compartment is sealed by side covers (see Figure 2 and 3). The side covers are standard from Caterpillar and are in place at all times.

d. The cooling fan is the standard stock fan. Caterpillar presently offers options on different fan types. No acoustical data is available on effectiveness for overall noise reduction.

In addition to equipment described in a-d above, the two units are equipped with turbochargers.

Question: In your consultant's September 25, 1979 letter, noise levels are given for the two log loaders.

a. What do you attribute the 5 dbA difference between log loaders to?

b. What are the emission levels of the loaders according to SAE J88 or other similar procedure as measured at 50 feet?

Answer: a. Unit 966C is a 170 hp six cylinder diesel unit. Unit 950 is a 130 hp four cylinder diesel unit. The 5 dbA difference in sound level (with 950 quieter) is not abnormal for a considerably smaller unit. The difference also indicates that exhaust noise is not a significant contributor to the overall noise level. The noise is dominated by mechanical noise inside the engine compartment. Product literature on models 966C and 950 is attached for your reference.

b. The SAE J88 test, "Exterior Sound Level Measurement Procedure for Powered Mobile Construction Equipment" is a drive by test for mobile equipment. The minimum test area is required to be smooth concrete or smooth and sealed asphalt or a similar hard and smooth surface. A copy of the testing procedure is attached. Test conditions compatible with J88 moving test do not

exist at the Myrtle Point Mill. The log yard is dirt (rough) and therefore restrictive on speed and uniform ground reflection. J88 does provide for stationary testing of equipment (paragraph 3.2 (a)). This testing procedure is similar to ASA standard 3-1975 "Test-Site Measurement of Maximum Noise Emitted by Engine-Powered Equipment." The ASA standard recommends stationary testing for equipment that travels at speeds less than 15 mph. Less than 15 mph is the typical log yard speed. A copy of this standard is also attached. The test site for the ASA test also needs to be smooth and paved. As a general practice, noise measurements made by SJO on mobile equipment are made in accordance with ASA standard 3-1975.

There are no basic procedural differences, except the recommendation for stationary testing for slow moving equipment. Adverse testing conditions at Myrtle Point required that testing be made at 25 feet from the unit rather than 50 feet. At the closer distance, the ground surface has a minimal effect on measured sound level. For this case of log loaders measurements, a 6 decibel per doubling distance adjustment was used to normalize the measured noise levels to 50 feet. We feel that an error of $\pm$ 2 db would be the most expected if the units were re-tested under ideal test site conditions.

Question: Murphy Company proposed a noise reduction project by Barrier Corporation on the Caterpillar 966C and 950 loaders in your July 16, 1979 letter. The estimated cost of that project was $3,000 per vehicle.

a. What noise reduction techniques were to be employed in that proposal?

b. What was the estimated noise reduction for each of the loaders?

c. How much time would have been needed to implement the Barrier Corporation modifications?

d. What specific information led to the rejection of the Barrier Corporation proposal?

Answer: Let me preface all answers by stating that the Barrier proposal was solicited on an informal basis with no specific goals identified or firm cost estimates provided. A field evaluation of the units in question is required by Barrier personnel prior to committing to a noise abatement design. This field inspection was not authorized pending final noise study recommendations by SJO.

a. Noise reduction techniques employed by Barrier evolve around the design and fabrication of noise abatement panels. Such panels may be constructed for engine compartment enclosure (side and bottom). Vibration mounting and isolation of mechanical components, and specific acoustical tests to evaluate effectiveness of existing muffler are also evaluated. Application and location of acoustical insulation material within the engine compartment would be identified. No major equipment modifications such as a different radiator or expanding the engine compartment were to be addressed.

b. Noise reductions of 15 dbA are technically feasible. To achieve a greater than 10 dbA reduction, an extensive analysis would be necessary for units with existing residential mufflers.

c. The time to implement modifications is wholy dependent upon requirements of b above.

d. The identification of the 8 to 13 dbA necessary reduction for log loaders to meet DEQ nighttime regulations coupled with the discussion with the Caterpillar factory which recommends against modifying stock units are the prime factors which led to the rejection of the Barrier proposal.

The disparity between DEQ noise emission standards for licensed mobile equipment and mobile equipment used exclusively on an industrial/commercial site also contributed impetus to the variance request and rejection of the Barrier proposal. The following table lists the maximum design, measured, and regulated sound levels pertinent to the log loaders in question.

dbA NOISE LEVELS

Diesel Mobile Equipment

Condition	Sound Level at 50'
Caterpillar U.S. Design	85
Caterpillar French Design	74 72.2
Existing Unit 966C	79-80
Existing Unit 950	75
DEQ Daytime Standard (1)	72
DEQ Nighttime Standard (1)	67
DEQ Motor Vehicle Standard (2)	85
DEQ Motor Vehicle Standard (3)	81

(1) Assumes closest distance to noise sensitive property of 200 feet.

(2) DEQ, Table C, "In Use Road Vehicle Standards" for trucks in excess of 10,000 pounds GVWR for 35 mph or less.

(3) DEQ, Table C, "In Use Road Vehicle Standards" for trucks in excess of 10,000 pounds GVWR for 35 mph or less after 1981.

Question: Caterpillar Corporation did not recommend their "French Modification" because of diminished cooling capacity in the diesel loaders. Please supply us with detailed meteorological information on the average number of days per year in Myrtle Point (Coos County) that 90°F, 100°F, and 110°F are exceeded respectively.

Answer: Diminished cooling capacity was not the reason Caterpillar did not recommend their "French Modification." The "French Modification" was not recommended primarily because the manufacturing equipment to produce the modified parts do not exist in US. Caterpillar assembly plants. However, the cooling capacity restrictions are a real factor in evaluating feasibility of noise abatement treatment. Lack of attention to this detail is partial basis for Caterpillar reluctance to endorse outside consultant modifications to Caterpillar units.

Myrtle Point does not have a permanent recording meteorological station. Daily observations are however recorded by the local Police Department. The following table lists the average summer month temperature data for Myrtle Point as recorded by the Police Department.

Numerous Oregon cities have recording stations. This data is summarized in the Climatological Handbook, Columbia Basin States, Volume 1, Parts A and B. The attached Figure 3 shows the Oregon Climatological Network. Myrtle Point is marked on this figure. Table 1-9 Maximum Temperature: Monthly Extremes--Mean, Median and Highest, 1931-1965 is also attached. Marked on this table are the cities of Powers, Sitkum, Roseburg and Bandon. The following table summarizes the summer months data for these cities.

MAXIMUM TEMPERATURES: MONTHLY EXTREMES

Mean, Median and Highest

Station	No. of years		May	June	July	August	September
Bandon	25	Mean	70	71	71	72	77
		Median	67	70	70	70	76
		Highest	85	93	79	85	91
Powers	34	Mean	83	87	89	91	94
		Median	83	87	88	89	94
		Highest	98	101	99	105	103
Roseburg	31	Mean	88	93	98	98	95
		Median	88	92	98	98	96
		Highest	96	104	106	106	104
Sitkum	19	Mean	85	88	91	90	92
		Median	87	87	90	91	92
		Highest	94	98	100	97	101

This table verifies that maximum temperatures in excess of 90°F are common during the summer months around Myrtle Point.

We believe the information contained in this letter is fully responsive to your request. Your favorable recommendation to the EQC on issuance of a variance for the log loaders through July 1, 1980, will allow adequate time for the company and the Department to assess its situation thoroughly.

Furthermore, by incorporating the log loader issue into the final order and stipulation, both parties will have a cleaner regulatory package to work with.

Please call if there are any questions.

Yours very truly,

F. Glen Odell
Professional Engineer

FGO/cyn

cc: Kevin Murphy
William H. Young

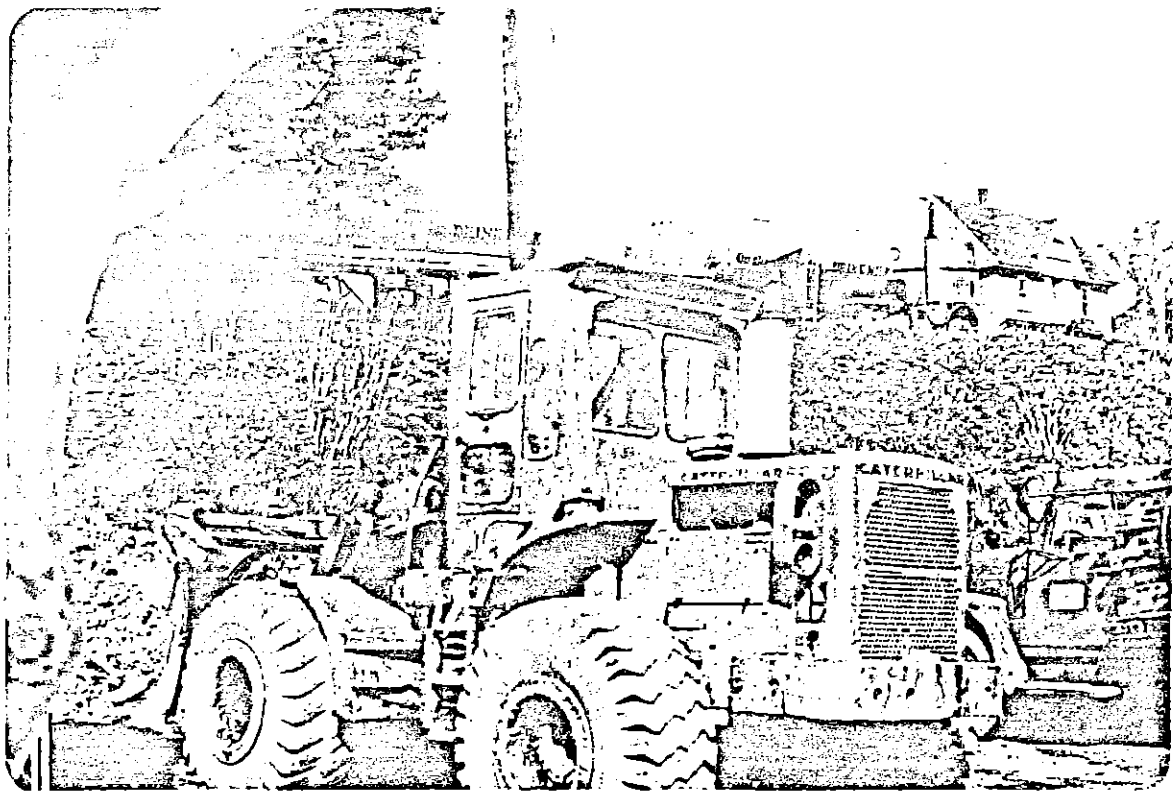


Figure 1 Unit 950

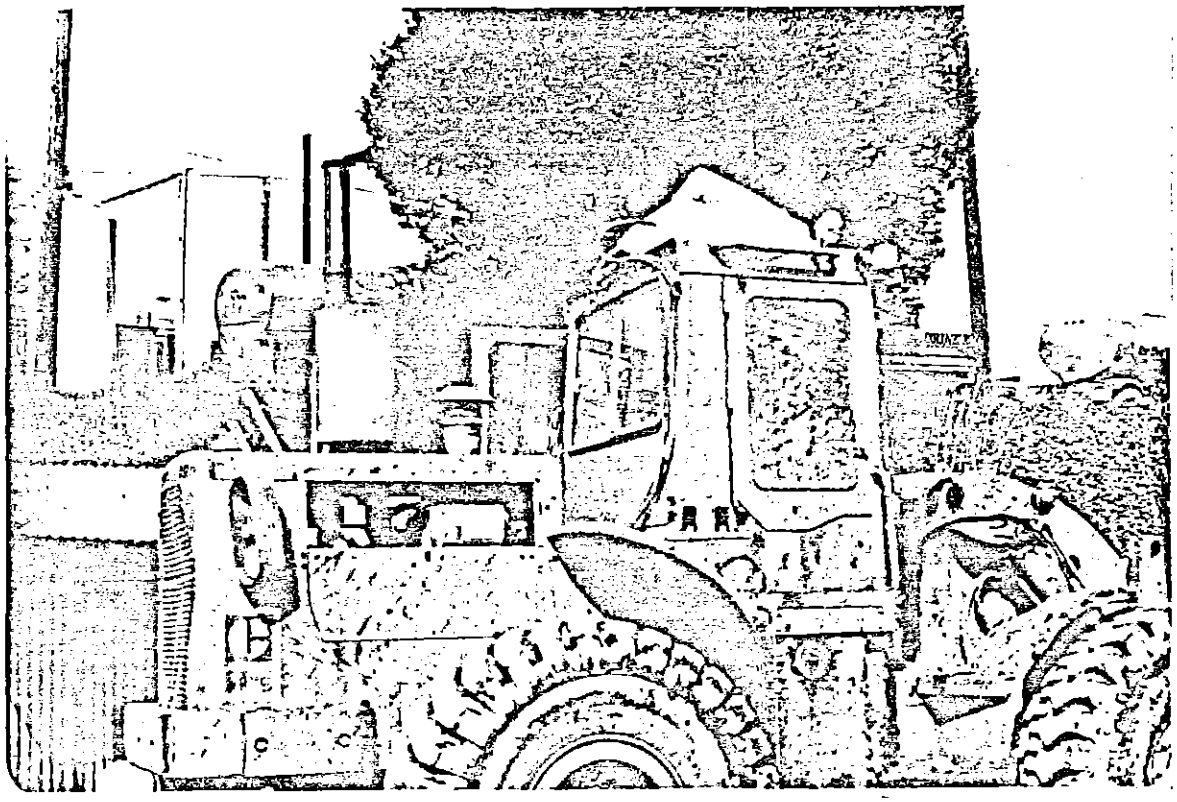


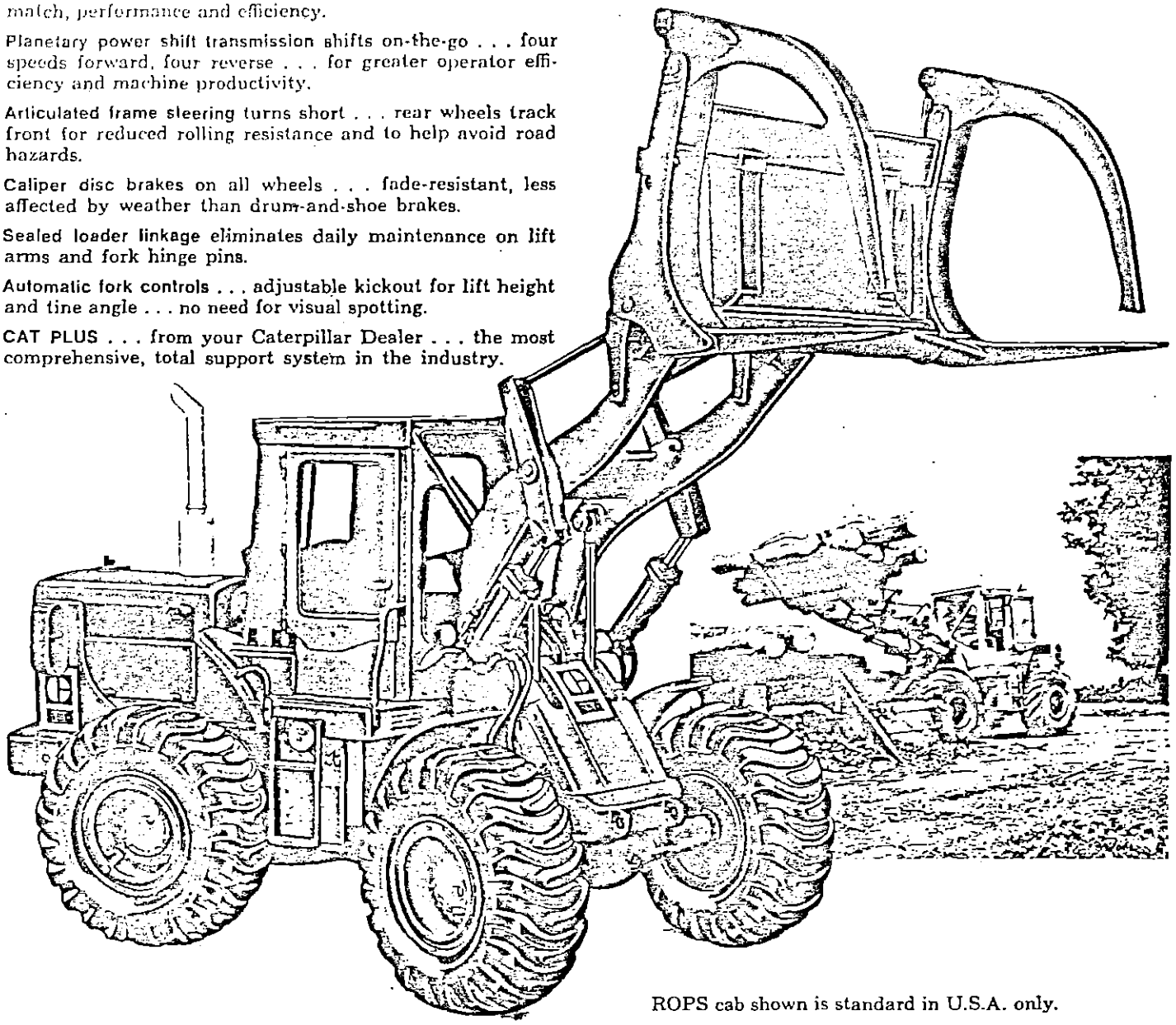
Figure 2 Unit 966C

CATERPILLAR

950 Log Loader

Summary of features

- Cat 3304 Engine . . . with 425 cu. in. (7.0 litres) displacement.
- Cat designed and manufactured power train . . . for optimum match, performance and efficiency.
- Planetary power shift transmission shifts on-the-go . . . four speeds forward, four reverse . . . for greater operator efficiency and machine productivity.
- Articulated frame steering turns short . . . rear wheels track front for reduced rolling resistance and to help avoid road hazards.
- Caliper disc brakes on all wheels . . . fade-resistant, less affected by weather than drum-and-shoe brakes.
- Sealed loader linkage eliminates daily maintenance on lift arms and fork hinge pins.
- Automatic fork controls . . . adjustable kickout for lift height and tine angle . . . no need for visual spotting.
- CAT PLUS . . . from your Caterpillar Dealer . . . the most comprehensive, total support system in the industry.



ROPS cab shown is standard in U.S.A. only.

Caterpillar Engine

Flywheel horsepower @ 2150 RPM 130
Displacement ..... 425 cu. in. (7.0 litres)

The net power at the flywheel of the vehicle engine operating under SAE standard ambient temperature and barometric conditions, 85° F. (29° C) and 29.38" Hg (995 mbar), using 35 API gravity fuel oil at 60° F. (15.6° C). Vehicle engine equipment includes blower fan, air cleaner, water pump, lubricating oil pump, fuel pump, muffler, air compressor and alternator. Engine will maintain specified power up to 10,000 ft. (3000 m) altitude.

Cat 4-stroke-cycle diesel Model 3304 with four cylinders, 4.75" (121 mm) bore, 6.0" (152 mm) stroke and 425 cu. in. (7.0 litres) displacement.

Precombustion chamber fuel system with individual adjustment-free injection pumps and valves.

Turbocharged. Stellite-faced valves, hard alloy steel seats, valve rotators.

Cam-ground and tapered aluminum alloy pistons with 3-ring design and cooled by oil spray. Steel-backed aluminum bearings, Hi-Electro hardened crankshaft journals. Pressure lubrication with full-flow filtered and cooled oil. Dry-type air cleaner with primary and safety elements.

Uses economical No. 2 fuel oil (ASTM Specification D396), often called No. 2 furnace or burner oil, with a minimum cetane rating of 35. Premium quality diesel fuel can be used but is not required.

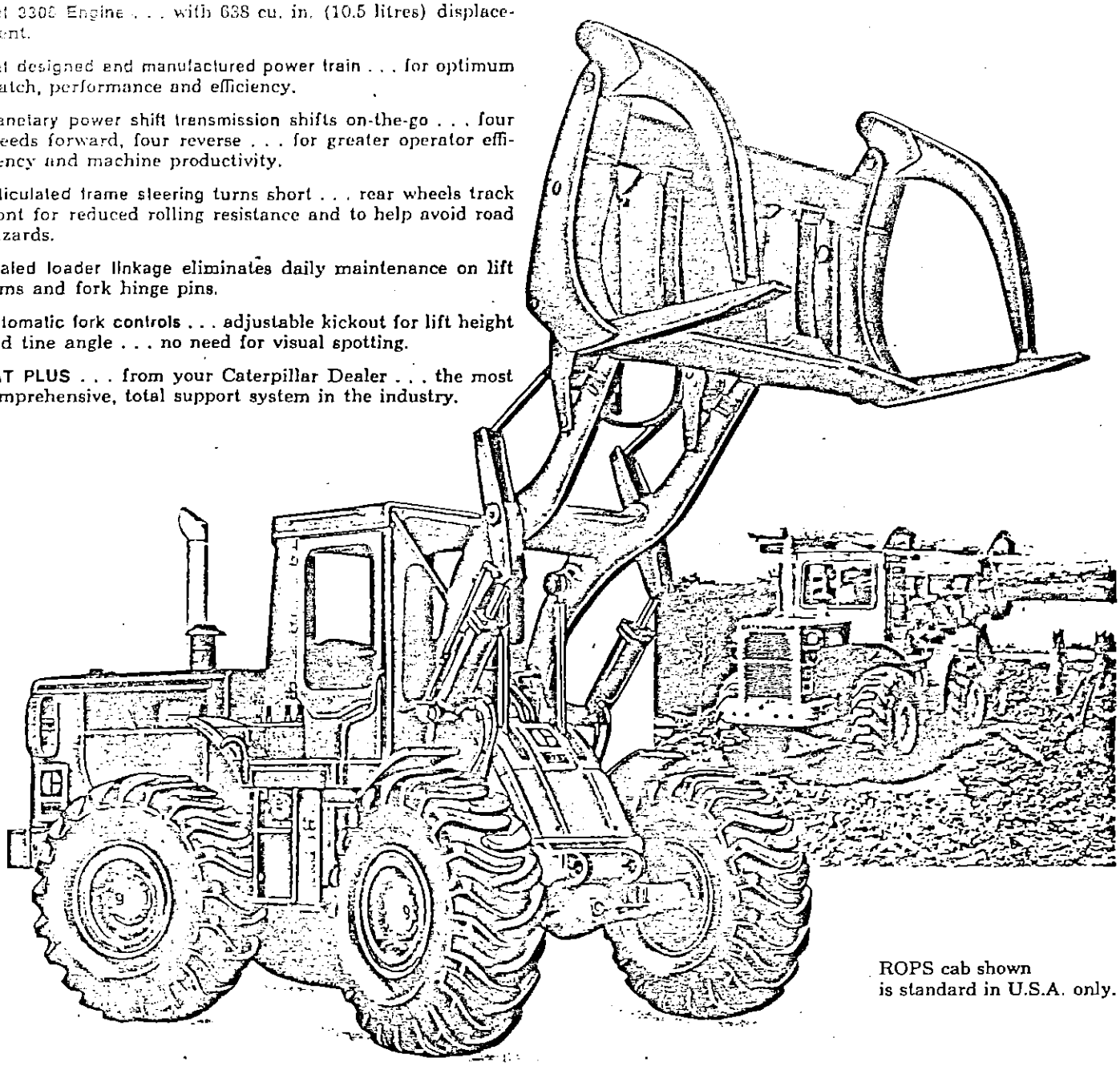
Two 24-volt direct electric starting systems – standard or low temperature. Glow plugs for preheating precombustion chambers included with both.

CATERPILLAR

966C
Log Loader

Summary of features

- Cat 3306 Engine . . . with 638 cu. in. (10.5 litres) displacement.
- Cat designed and manufactured power train . . . for optimum match, performance and efficiency.
- Planetary power shift transmission shifts on-the-go . . . four speeds forward, four reverse . . . for greater operator efficiency and machine productivity.
- Articulated frame steering turns short . . . rear wheels track front for reduced rolling resistance and to help avoid road hazards.
- Sealed loader linkage eliminates daily maintenance on lift arms and fork hinge pins.
- Automatic fork controls . . . adjustable kickout for lift height and tine angle . . . no need for visual spotting.
- CAT PLUS . . . from your Caterpillar Dealer . . . the most comprehensive, total support system in the industry.



ROPS cab shown is standard in U.S.A. only.

Caterpillar Engine

Flywheel horsepower @ 2200 RPM 170
Displacement ..... 638 cu. in. (10.5 litres)

The net power at the flywheel of the vehicle engine operating under SAE standard ambient temperature and barometric conditions, 85° F. (29° C) and 29.38" Hg (995 mbar), using 35 API gravity fuel oil at 60° F. (15.6° C). Vehicle engine equipment includes blower fan, air cleaner, water pump, lubricating oil pump, fuel pump, muffler, air compressor and alternator. Engine will maintain specified power up to 10,000 ft. (3000 m) altitude.

Cat 4-stroke-cycle diesel Model 3306 with six cylinders, 4.75" (121 mm) bore, 6.0" (152 mm) stroke and 638 cu. in. (10.5 litres) displacement.

Precombustion chamber fuel system with individual adjustment-free injection pumps and valves.

Turbocharged. Stellite-faced valves, hard alloy steel seats, valve rotators.

Cam-ground and tapered aluminum alloy pistons with 3-ring design and cooled by oil spray. Steel-backed aluminum bearings, Hi-Electro hardened crankshaft journals. Pressure lubrication with full-flow filtered and cooled oil. Dry-type air cleaner with primary and safety elements.

Uses economical No. 2 fuel oil (ASTM Specification D396), often called No. 2 furnace or burner oil, with a minimum cetane rating of 35. Premium quality diesel fuel can be used but is not required.

Two 24-volt direct electric starting systems – standard or low temperature. Glow plugs for preheating precombustion chambers included with both.

Attachment C
Agenda Item L
November 16, 1979
EQC Meeting

Department of Environmental Quality

SOUTHWEST REGION
1937 W. HARVARD BLVD., ROSEBURG, OREGON 97470 PHONE (503) 672-8204

October 17, 1979

CERTIFIED MAIL
Return Receipt Requested

Kevin Murphy
The Murphy Company
06380 Highway 126
Florence, Oregon 97439

RE: NP-Coos County
Murphy Company
Myrtle Point
NOTICE OF VIOLATION
ENF-NP-CBBO-79-50

Dear Mr. Murphy:

October 3, 1979 the Coos Bay office received a complaint that your company was operating the Myrtle Point mill beyond the hours allowed under your recent variance. Specifically, it was reported that your mill had been operating regularly from 4:00 a.m. to 1:00a.m. for the previous two weeks, and had operated all but two hours (from 1:00 a.m. to 3:00 a.m.) the morning of October 2. The variance allows violation of the nighttime standards (which occurs whenever the mill operates) only from 10:00 p.m. to 12:30a.m., and 6:00 a.m. to 7:00 a.m.

At 5:05 a.m. on October 3, 1979, the undersigned observed your mill in what appeared to be full operation. Noise readings were then taken and showed the following:

	Actual Reading	Nighttime standard
L 50	62 dBA	50 dBA
L 10	67 dBA	55 dBA
L 1	70 dBA	60 dBA

Please be advised that the above constitutes a violation of OAR 340-35-035 (1)(a), and is contrary to the conditions of the variance agreement. You are hereby directed to take whatever action is necessary to prevent any further violations of nighttime standards between the hours of 12:30 a.m. and 6:00 a.m.

Feel free to call me at 440-3338 if you have any questions on the above.

Sincerely,

Barbara A. Burton

Barbara A. Burton
Environmental Specialist

BAB:jsp

cc: Regional Operations
Noise Control Section ✓
Bill Young, Office of Director
Seton, Johnson, and Odell

Myrtle Point, Oregon
October 11, 1979

Environmental Quality Commission
Mr. Joe Richards, Chairman
P. O. Box 1760
Portland, Oregon 97207

Dear Sir:

We understand that the Murphy Co. has now asked for another hearing for a variance on quieting its log carriers. We write to you in an effort to forestall any more variances for that company.

To say that we were shocked and grieved that a variance on the mill's night noise was granted at the end of August is at best an understatement. Despite our letter to the Commission we were not informed of the results of that meeting and only found them out when they appeared in our local paper. We cannot yet believe that our three years and ten months of working with the D.E.Q. on the outrageous mill noise of Murphy's local veneer mill, especially the night noise, has been an exercise in endurance, patience, and utter futility. The mill has only been permitted to enlarge greatly with continuously increasing noise, and despite repeated promises by the D.E.Q. that the mill must comply with standards, there has never been any enforcement whatsoever.

Since your granting them the night noise variance, that noise has escalated greatly, we feel out of spite and the knowledge that nothing will be done to stop them. We are now reduced to sleeping on our dining room floor, as this room has two inside walls which deaden the sound slightly. Thursday night of last week and Monday night of this week, for instance, a large chainsaw was used approximately every five to seven minutes from dinner time until after 12:30 AM when the mill closed. Kevin Murphy, Peter Murphy, their mill foreman, our Chief of Police, and our City Manager all swear time after time that they not only have no chain saw on the premises but there is no need for such a saw. However, chainsaws are used daily and nightly and can be witnessed in action at the mill simply by standing and watching for a few moments. Miss Burton has seen these saws in action and also has seen where one is located inside the mill. They are used as early as 4 A.M. and as late as 1:30 A.M.

We are utterly desperate and desolate to find that a State organization which purports to protect and improve the quality of the environment and has just ruled to protect the tiny marine creatures in Coos Bay apparently has no interest whatsoever in the survival and well-being of the human beings in the area.

We retired here before the Murphys ever came to Myrtle Point. It may be significant for you to know that none of the Murphys lives closer to Myrtle Point than Florence, Oregon. Hence, the mill noise can in no way disturb them. We have been threatened by Kevin Murphy by phone and browbeaten by him in a letter. His foreman, whom we have never seen, talked to, nor called at the mill, is reported to have called the D.E.Q. office in Coos Bay "so angry that his voice was shaking", stating that he wanted to sue the Robinsons for harrassing him.

Kevin Murphy apparently used every means he was capable of thinking of to mislead the Commission. Even in his letter to you before the hearing he did not give you the true facts. The mill right at that time was operating from 5 A.M. until 12:30 A.M., a total of 19½ hours daily. It then went into several weeks of starting at 4 A.M. and closing at 12:30 A.M., a total of 20½ hours daily. From last fall until mid-winter the operation was from 5:00 A.M. to 12:30 A.M., and from mid-winter until late spring it operated from 4:00 A.M. until 1:30 A.M., leaving us only 2½ hours of possible sleeping time. Despite triple windows on our bedroom there is no sleep possible when the mill is operating. The present operation is from 5:00 A.M. until 12:30 A.M., which still is even more than the time agreed on by the Commission in granting the variance. Also, it appears that Kevin Murphy said he polled the area and found no one who objected to the mill noise. I enclose a copy of a petition which I got at the request of our City Manager three years ago which shows that many people in the area of the mill did object. However, several of these people have been forced to move to other locations because of the harassment of the mill. Others were afraid to sign and said so because they either worked for Murphy or another mill, or drove log trucks and felt that signing might in some way jeopardize their jobs. The character of the local people in their fear of becoming involved in any way in any matter is demonstrated by an enclosure from the World newspaper concerning a recent murder here. This makes it very difficult to get outright support even from many who are really disturbed by the mill but are afraid to sign or have their names used.

Mr. Robinson and I are 73 and 66, respectively, and we have a nice home which we expected to live in for the rest of our lives. We are now being forced by the Murphy mill and the State agencies, designed to improve the quality of life, to search for another home in another area and go into debt for the rest of our lives because of the terribly inflated prices of homes now and the fact that we are on a retired income.

our mental and physical health have been impaired by four years of little or no sleep. We cannot even work in nor enjoy being out in our yard because of the invasion of our privacy by the incessant noise of the mill. This noise trespass has lowered the value our home, which will make selling it more difficult and make the amount we have to borrow to purchase another home greater and more of a burden.

We beg of you not to grant any more variances of any kind to the Murphy Co. and we further request that you recind the night variance which was granted them in August, as it was obtained under false pretenses. We, also, further request that civil penalties be assessed against this Company which has been declared in violation of the D.E.Q.'s noise standards by the D.E.Q.'s own measurements for almost 4 years with no real intent to comply by the Murphy Co. in all that time.

Does the ordinary citizen who supports these agencies designed to protect and improve the quality of life have recourse to <u>any</u> office whatsoever when industry is concerned ? If so, will you please advise us where we can turn now for help in our long and unsuccessful fight to be permitted some peace and sleep in our own home ?

We invite you to come to Myrtle Point to see the situation for yourself, if this is possible. We should be overjoyed to talk to you. We thank you for whatever action you might take in our behalf.

Yours Sincerely,

Gertrude P. Robinson

Homer W. Robinson

Gertrude P. Robinson
Homer W. Robinson
706 4th St.
Myrtle Point, Ore. 97458

Presented May 17, 1976
to City Council

TO THE HONORABLE MAYOR AND COUNCIL OF THE CITY OF RENTON:

We, the undersigned, respectfully request that immediate action be taken to prohibit the RENTON VENEER CO., 100 Maple Street, and its affiliated equipment from operating between the hours of 10:00 P.M and 7:00 A.M.

The constant excessive noise of this mill constitutes a public nuisance and is intolerable. It prevents normal conversation in our yards, causes mental anguish, and interferes greatly with our sleep, thus impairing our health. In addition to these personal factors, the resale value of our property is seriously lowered.

For the past six months the mill has operated for 16 hours per day at a noise level incompatible with health and peace of mind, and we feel that a curtailment of two and one half hours of their daily operation would permit us to get some rest and sleep and would not be greatly detrimental to the economics of the mill. Surely the well-being of the local area residents is as important to the City as the business of one industry.

	Name	Address
1	Homer W. Thomson	806 Fourth St.
2	G. P. Robertson	806 4th St.
3	Bertha Brown	703 S 4th St.
4	Lawrence Miller	621-4 St
5	W. E. Miller	621-4 St.
6	Verity L. Thomas	520 4th St.
7	H. Thomas	" " "
15	Ruby Berry	715-S-4th

	Name	Address
8	Alice Strode	610-4th
9	Jerry Strode	509-4th
10	Ida Mae Brandt	509-4th
11	Lorraine Fisher	504-4th
12	Alvah R. Raymond	204 Wells
13	Virginia Raymond	204 Wells
14	Jean P. Fisher	506-4th

Myrtle Point
HERALD
[illegible], 18 Pages
Second Class Postage Paid at Myrtle Point, Oregon 97458
Thursday, March 1, 1979
Myrtle Point, Coos County, Oregon

Murphy production doubles as firm updates operation

By [illegible]

Production at the Murphy Veneer Company's mill here has doubled over the last year as the firm updates its operation, members of the Myrtle Point Chamber of Commerce learned at their meeting Tuesday, Feb. 20.

"Our block count is 1,[illegible] to 2,200 per shift," reports local manager [illegible] St. Onge. "Last year we were averaging [illegible] to [illegible] per shift."

St. Onge, who took over the mill superintendent position a year ago, says the updating is expensive but will pay off with increased production. The plant makes veneer sheets which are shipped to Murphy dryer operations and other manufacturers for assembly into plywood.

"We were slow before so nothing functioned as it should," explained the plant operator. "One of the reasons for the speed is a new lathe motor which runs at [illegible] rpm, an increase over the [illegible] rpm old [illegible]."

The overall operation has been [illegible] to making pro[illegible] [illegible] than [illegible] [illegible] expected.

"The growth in production will generate more revenue," commented the new superintendent. "At the same time, we're working to be a part of the community."

Quieter operation

The firm installed a new barker last January which helped cut plant noise, according to the superintendent. Town residents have complained of noise in the past.

"We're installing plastic liners [illegible] the conveyors to help cut noise als[o]," commented St. Onge. "A bigger chip bin allows us to store chips longer so trucks aren't needed all the time. The bin has been here one month."

The Murphy Company is also working to improve onsite appearance and reduce mud and debris on city streets.

Buildings at the site have been painted. The log yard, currently a dirt pollution problem, will be blacktopped this spring or summer. Blacktop will also be put underneath veneer, barker and other equipment.

"A new addition to the equipment shop will be built," [illegible] St. Onge. "Our old office building [illegible] possibly be replaced this summer also."

The superintendent says all the new construction [illegible] means more money for the local community.

"We started a spring house-cleaning just last week," said the local manager. "We took over 2,[illegible] pounds of scrap iron out and there's lots more."

Many "haywire" assemblies have been located in the production line. "We're planning to boost production even further," says St. Onge.

Busy time

The firm employs [illegible] workers on two shifts. Demand for wood has resulted in nine hour shifts recently.

St. Onge described the Murphy Veneer Company as "not small but not big either." The firm has mills in Gushman, Swiss Home, and [illegible] field. There is a logging operation and a fleet which goes all over the state.

St. Onge has been with the Murphy firm for a [illegible] [illegible], has [illegible] trouble [illegible] in new lathe operation at the plant [illegible] a [illegible] years ago [illegible]

[illegible] Point is [illegible] friendly [illegible]," says St. Onge. "[illegible] of people in [illegible], but also from other fields. Here you can visit with anyone."

The World

Serving Oregon's great South Coast for over 100 years

No. 75 101st Year | Published in Coos Bay, Oregon 97420 | Monday, October 1, 1979

Shots in the neighborhood

No one called the police

By CHARLES ROCHEL
Staff Writer

MYRTLE POINT — At least half a dozen shots were fired in a quiet neighborhood of downtown Myrtle Point one evening this month.

No one called the police.

Ronald Lee Rice, 30, allegedly ran out of his house a short time later, screaming that he had shot his mother.

No one called the police.

Aided by passersby, Rice found his way to the police station an hour after the shots were allegedly fired. Only then did police learn of the death of Rice's mother, Marion Madden Rice.

"I was shocked," says Myrtle Point Crime Prevention Officer Diane Holloway. "Not even one person called in."

According to police reports, an officer at city hall — two blocks away — had heard shots but was unable to determine the direction from which the sound had come.

He went back into the police station to await a report from someone closer to the shooting. No one called.

Rice has been charged with the murder of his mother and is currently undergoing private psychiatric tests to determine whether he is fit to stand trial and whether he was suffering mental disease or defect at the time of the alleged crime, according to Coos County District Attorney Earl Woods Jr.

Woods, too, was shocked by the thought of area residents hearing the shots and not reporting the disturbance.

"We talked to lots of neighbors," he says of the investigation into the murder, "most of whom heard the shots. We didn't ask why they didn't call; we didn't want to put them off."

Holloway had talked to residents in the area a few weeks before the shooting incident, trying to start up a Neighborhood Watch Program where residents would be aware of who their neighbors are, watch for unusual happenings in their neighborhood and alert police.

"I didn't get that much response," she admits. "I had a hard time getting the neighbors involved. Nobody really wanted to volunteer a home to hold a meeting, though some were interested in talking with me."

All that can be guessed at is that the persons who heard the shots or suspected trouble did not want to "get involved."

The question, then, is how much "involvement" is there in letting the police know about suspicious circumstances? Or how upset would the police be at checking out something that turned out to be harmless?

The second question is easiest to answer, according to Holloway and other police officers.

"We'd rather check out something that was nothing," she explains. "I can't emphasize that enough. If it's suspicious to you, it's worth checking out."

If you've never called the police to report an incident, Holloway (a former dispatcher) explains what you can expect.

"The first thing they would have done is ask your name, the location and other things — try to get as much information as possible."

The importance of that information, she explains, is to aid an officer who answers the call. "His safety is at stake," she says. "He needs to know as much as he can."

Would the police give your name out to

(Continued on Page 2)

Police encourage reports

(Continued from Page 1)

the media or anyone who asked for it?

Probably not, says Holloway. "Most police departments don't give out who reported something. It just doesn't happen that way."

For the press, the description of "a neighbor" or "a passerby" is usually sufficient.

That rule does not hold, however, if you sign a complaint against someone as the victim of a crime. Then the person being accused has the right to "face his accusers."

If you are not the victim, Holloway continues, you may be asked a few questions about what you heard or saw, but rarely would you be asked to testify in court "unless you actually witnessed the action."

The best way to convince someone that they should "get involved," Holloway says, is to reverse the circumstances.

"What if that would have been your house?" she asks. "You would have wanted your neighbors to call. Or if there was a fat and run and it was your car, you would have a fit if someone saw it and would not tell the police."

Why does Holloway think the neighbors ignored the sound of shots in the night?

"They didn't want to get involved. Maybe they didn't think it was anything or they were in bed and didn't want to get up," she guesses.

"I just can't understand it."

Victor Atiyeh
Governor

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 M, November 16, 1979, EQC Meeting

Request for a Variance from Rules Prohibiting Open Burning Dumps, OAR 340-14-040(2)(c), for Solid Waste Disposal Sites at Brookings and Nesika Beach in Curry County.

Background and Problem Statement

The Commission has previously granted variances from the Department's rules prohibiting open burning dumps for disposal sites at Brookings and Nesika Beach. The most recent variance was granted at the Commission's July, 1979, meeting. At that time, Curry County agreed to close the sites as soon as construction of an incinerator in Brookings was completed. It was believed the facility would be operational by October 1, 1979, and the variance was only granted until that date. A copy of the staff report for that variance request is attached.

Due to construction delays, the Brookings incinerator is not yet operational. Construction is virtually complete, but the shakedown period may run past December 1, 1979. Accordingly, the county now requests an extension of the variance to cover this period. The Commission may grant variances under conditions set forth in ORS 459.225 which are described below.

Alternatives and Evaluation

As discussed in the July variance request (see attachment), there are no reasonable alternatives to open burning at the present time. If a variance is not granted, the sites would have to close and wastes hauled considerable distances (25 to 55 miles) to other landfills. Construction of the new incinerator is nearly complete and there is no reason to believe that the disposal sites won't be closed before the end of the year.

Under Oregon Revised Statutes (ORS) 459.225, the Commission may grant a variance to solid waste regulations only if:

(a) Conditions exist that are beyond control of the applicant.

(b) Strict compliance would be unreasonable, burdensome or impractical.

(c) Strict compliance would result in closure of a site with no alternative facility available.

In the Department's opinion, closure of the two disposal sites would be unreasonable, in view of the brief interim period before a replacement is available. The construction delays were beyond the control of the applicant and strict compliance with the rules would result in premature closure of the sites. The county's request to extend the variances until the replacement facility is available, but not later than December 31, 1979, seems most reasonable.

Summation

1. Curry County was issued a variance in July, 1979, to continue operating open burning dumps at Brookings and Nesika Beach until a new incinerator was constructed. The variances expired October 1, 1979.

2. Construction of the incinerator was delayed and is not yet completed. The facility is now expected to be operational about December 1, 1979.

3. Strict compliance would result in closure of the two disposal sites and would be unreasonable in the Department's opinion.

4. Under ORS 459.225, a variance can be granted by the Commission.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that a variance be granted to Curry County to allow continued operation of open burning dumps at Brookings and Nesika Beach until an alternative is available, but not later than December 31, 1979.

Bill

William H. Young

Attachment--July 27, 1979, Agenda Item

Barbara A. Burton:PA
440-3338
November 1, 1979
SP7078.A

Environmental Quality Commission

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

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item No. G, July 27, 1979, EQC Meeting

Variance Request - Request by Curry County for a variance from rules prohibiting open burning dumps OAR 340-61-040(2)(c)

I. Background

September 22, 1978, a variance was granted to Curry County to continue operation of its open burning dumps at Brookings and Nesika Beach until August 1, 1979. The variance was granted to allow Curry County time to establish an acceptable regional landfill.

Since the variance was granted, Curry County has reached agreement with a private corporation, Brookings Energy Facilities, Inc., to establish a regional solid waste disposal facility near Brookings. The proposed facility will consist of two Consumat incinerators, with heat recovery expected within the next two years, and a new site for disposal of the ash residue. This facility is in accordance with the adopted Curry County Solid Waste Management Plan, and is being partially funded by a construction grant from the Department. Because of the difficulty in finding an acceptable location for the incinerators, the construction has been delayed. The foundations have been laid, and the incinerators are on site and expected to be assembled by August 1, 1979. Curry County anticipates having the incinerators and new landfill operational by no later than October 1, 1979.

ORS 459.225 provides authority for the Commission to grant variances from Solid Waste regulations, under certain conditions which will be discussed below. The variance being requested is from Oregon Administrative Rules (OAR) 340-61-040(2)(c), which prohibits the operation of open burning dumps.

II. Alternatives and Evaluations

Brookings Disposal Site. The Brookings site is nearing capacity. Curry County estimates that the site will be full if more than ten (10) days of garbage accumulates without burning. The nearest acceptable landfill is in Crescent City, California, approximately

25 miles away. This site may not be available because of prohibitive fees or restrictive P.U.C. requirements in California. The nearest acceptable Oregon site is Port Orford, about 55 miles away. In the Department's opinion, for the short period of the extension, it would be preferable to continue operation of the existing dump.

Nesika Beach Site. The Nesika Beach site, located near Gold Beach, is also approaching capacity. The nearest acceptable site is about 25 miles away in Port Orford.

For the two months necessary to finish the new Brookings site, the Department recommends continuation of the existing dump operation. The Port Orford site is designed to serve a smaller community than Gold Beach, and would fill faster than expected if the Nesika Beach site were closed August 1. The Port Orford site is needed to serve the sparsely populated north county area.

Conditions under which a variance to Solid Waste regulations can be granted.

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, closure of the two sites on August 1 would be impractical, with the new site due to open by no later than October 1. Re-directing the public and private haulers for a maximum of two months would be disruptive.

III. Summation

1. Curry County was issued a variance to continue operation of the Brookings and Nesika Beach open burning dumps. This variance to OAR 340-61-040(2)(c) prohibiting open burning dumps is due to expire August 1, 1979.

2. Start of construction of a new regional facility was delayed because of difficulty in finding an acceptable site. Construction is well underway, and is expected to be completed by October 1,1979.

3. Alternate disposal sites are available for the two months interim. Use of these sites is impractical, in the Department's opinion.

4. Under ORS 459.225, a variance to solid waste regulations can be granted by the Commission if the alternatives available are impractical.

IV. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a variance be granted to Curry County to continue operation of the Brookings and Nesika Beach open burning dumps until October 1, 1979.

Michael Downs
for
WILLIAM H. YOUNG

Barbara A. Burton
672-8204

BAB:ml

VICTOR ATIYEH
GOVERNOR

Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207
522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item No. N, November 19, 1979, EQC Meeting

Requests by Tillamook County for Extension of Variances from Rules Prohibiting Open Burning Dumps, OAR 340-61-040(2)(c).

Background

At the April 27, 1979, Environmental Quality Commission meeting, staff presented variance requests from Tillamook County (Agenda Item No. J(1), attached) to allow for continued open burning at three (3) solid waste disposal sites. Staff reported that a regional disposal site had been selected and that operational plans were being drafted. It was anticipated that the regional site would be operational by September 1, 1979. The open burning variance requests were granted by the Commission for six (6) months to November 1, 1979.

The "Tillamook Landfill Conversion Plan" to upgrade and expand the Tillamook landfill into a regional solid waste disposal site was approved by the Department June 29, 1979. On July 23, 1979, Tillamook County submitted a Solid Waste Management Grant application for monies to assist in the conversion. The application is being held pending outcome of a complaint for injunction filed by an adjacent property owner, and until the County resecures timber rights to the landfill site.

Discussion

Tillamook County Board of Commissioners has requested variances to continue open burning at the Manzanita, Tillamook and Pacific City Disposal Sites.

Discussion, cont.

The County has resecured the timber rights to the landfill site. Tillamook County Counsel has advised the Commissioners that they may proceed to let bids on the conversion of the Tillamook disposal site even though the suit for injunction has not been resolved. The suit for injunction has been filed and withdrawn several times. County's Counsel states that letting the bid will force resolution of the issue. The bid is scheduled to be let December 4, 1979.

The solid waste consultant for Tillamook County has also prepared plans for conversion of the Manzanita and Pacific City sites to transfer stations. These plans have been endorsed by the County Solid Waste Advisory Committee, and the County Commissioners are working on a finance plan for the transfer sites.

It will be possible to perform some minor site work during the winter season, however most of the work will necessitate three (3) months of dry summer weather. It is anticipated that the regional site will be operational prior to October 1, 1980.

It is the opinion of the staff that the physical characteristics (surface area, topography, soils, etc.) of the existing disposal sites, prohibit their use for continued solid waste disposal without open burning. 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 a finding (ORS 459.225(3)(C)).

Summation

1. Because of time lost resecuring timber rights to the regional landfill site and delay due to litigation, previously adopted schedules to phase out existing open burning disposal sites have not been met.

2. Winter and spring weather conditions in Tillamook County limit construction to complete the landfill conversion as approved.

3. It is the opinion of the staff that approval of the variance requested is necessary to facilitate transition to an acceptable solid waste disposal program.

4. Strict compliance with the rules would result in closing of the existing facilities with no alternative facility or method yet 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) for the Manzanita, Pacific City and Tillamook disposal sites until October 1, 1980 subject to the following conditions:

> Open burning at the disposal sites is to be discontinued prior to the expiration date of the variance if a practical alternative method of disposal becomes available.

Bill

WILLIAM H. YOUNG

John L. Smits/lm
842-6637
10/30/79
Attachment (1)
Agenda Item No. J(1), April 27, 1979, EQC Meeting

Victor Atiyeh
Governor

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. 0(1) , November 16, 1979, EQC Meeting

Patrick Johnston - Appeal of Subsurface Variance Denial

Background

The pertinent legal authorities are summarized in Attachment "A".

Mr. Lawrence Jensen, a prospective buyer, filed an application with Marion County to have the property (5.3 acres) evaluated to determine the feasibility for subsurface sewage disposal on January 9, 1978. The property is identified as Lot 13, Jackson Acres; also identified as Tax Lot 1379, Section 25, Township 4 South, Range 2 West, in Marion County. On January 19, 1979, Mr. Robert R. Foster, a Registered Sanitarian with Marion County, reviewed the property and observed ponded water at or above the ground surface in the lower areas. On higher ground he observed the water levels in four (4) test pits ranging from seven (7) to nine (9) inches below the ground surface. Mr. Foster was not able to accurately determine the depth to the restrictive soil horizon because of the saturated soils, but assumed that it occured at a shallow depth. By letter dated January 20, 1978, Mr. Jensen was notified that the property was not approvable for subsurface sewage disposal.

On May 3, 1979, an application for variance from the subsurface rules [OAR 340-71-020(3)(a); 71-030(1)(d); and 71-030(4)(f)(F)] was received by Water Quality Division. The application was found to be complete on May 22nd and was assigned to Mr. Gary Messer, Variance Officer, on May 24th. Mr. Messer scheduled a visit to the proposed site on June 6th, and conducted the information gathering hearing on June 21st. After closing the hearing on June 28th, Mr. Messer evaluated the information provided by Mr. Johnston and others. Mr. Messer found the property to be nearly level, with ground slopes of less than one (1) percent. The soils in the proposed drainfield area were found to be distinctly mottled beginning at depths ranging from fourteen (14) to twenty (20) inches from the ground surface. The condition of distinctly mottled soil provides an accurate record of seasonal water levels present at the depths observed for extended time intervals. Water levels may be observed at shallower depths during and after periods of precipitation. Mr. Messer considered the possibility of lowering the high water table by the installation of an agricultural

drainage system, but because there was no apparent location to cause it to discharge, its effectiveness would be nil. Mr. Messer was concerned that the proposed system, if installed, could come into contact with the seasonal water table, and on occasion could be partially submerged. This could cause the system to become anacrobic, and could then cause the soil pores to become clogged. A diminished capacity within the drainfield would most probably result in the creation of a public health hazard by causing effluent to surface along the edge of the capping fill. Mr. Messer was also concerned about the possibility of sewage backing up into the house. As Mr. Messer was not convinced that a subsurface sewage disposal system could be installed at the proposed site without creating a public health hazard, he denied the variance request on July 5, 1979. (Attachment "B") Mr. M. Chapin Milbank, attorney for Mr. Patrick Johnston, notified the Department by letter dated July 12, 1979, of his client's wish to appeal the variance officer's decision. (Attachment "C")

Evaluation

Pursuant to ORS 454.660, decisions of the variance officer to grant variances may be appealed to the Environmental Quality Commission. Such an appeal was made. The Commission must determine if a subsurface sewage disposal system of either standard or modified construction can reasonably be expected to function in a satisfactory manner at Mr. Johnston's proposed site.

After evaluating the site and after holding a public information type hearing to gather testimony relevant to the requested variance, Mr. Messer was not able to find that a subsurface sewage disposal system, of either standard or modified construction, would function in a satisfactory manner so as not to create a public health hazard. Mr. Messer was unable to modify the proposal to overcome his concerns about the proposed site.

Summation

1. The pertinent legal authorities are summarized in Attachment "A".

2. Mr. Lawrence Jensen submitted an application for a statement of feasibility for proposed subsurface sewage disposal to Marion County.

3. Mr. Robert Foster evaluated the property to determine if a standard subsurface sewage disposal system could be installed. Temporarily perched water levels were observed at or above the ground surface in the low areas of the property, and at seven (7) to nine (9) inches below the ground surface on higher ground. The property was denied for subsurface sewage disposal because a temporarily perched water table was expected (and observed) to rise closer than twenty-four inches from the ground surface, and because of a suspected restrictive soil horizon being closer than thirty (30) inches from the ground surface.

4. Mr. Patrick Johnston submitted a variance application to the Department, which was assigned to Mr. Gary Messer on May 24, 1979.

5. On June 6, 1979, Mr. Messer examined the proposed drainfield site and determined the property to be nearly level. He found the soils to be distinctly mottled beginning at depths ranging from fourteen (14) to twenty (20) inches from the ground surface.

6. On June 21, 1979, Mr. Messer conducted a public information type hearing so as to allow Mr. Johnston and others the opportunity to supply the facts and reasons to support the variance request.

7. Mr. Messer reviewed the variance record and found that the testimony provided did not support a favorable decision. He was unable to modify the variance proposal to overcome the site limitations.

8. Mr. Messer notified Mr. Johnston by letter dated July 5, 1979, that his variance request was denied.

9. A letter appealing the variance officer's decision was received by the Department on July 13, 1979.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission adopt the findings of the variance officer as the Commission's findings and uphold the decision to deny the variance.

Bill

William H. Young
Director

Attachments: Pertinent Legal Authorities
Letter to Mr. Johnston dated July 5, 1979
DEQ Memorandum dated July 5, 1979
Letter from Mr. Milbank dated July 12, 1979

Sherman O. Olson:A
229-6443
November 1, 1979
WA2073

ATTACHMENT A

PERTINENT LEGAL AUTHORITIES

1. Administrative rules governing subsurface sewage disposal are provided for by Statute: ORS 454.625.

2. The Environmental Quality commission has been given statutory authority to grant variances from the particular requirements of any rule or standard pertaining to subsurface sewage disposal systems if after hearing, it finds that strict compliance with the rule or standard is inappropriate for cause or because special physical conditions render strict compliance unreasonable, burdensome or impractical: ORS 454.657.

3. The Commission has been given statutory authority to delegate the power to grant variances to special variance officers appointed by the Director of the Department of Environmental Quality: ORS 454.660.

4. Decisions of the variance officers to grant variances may be appealed to the Commission: ORS 454.660.

5. Mr. Messer was appointed as a variance officer pursuant to the Oregon Administrative Rules: OAR 340-75-030.

WA2073.A

ATTACHMENT B

July 5, 1979

Mr. Patrick Johnston
17914 Arbor Grove Road N.E.
Woodburn, OR 97071

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

RE: WQ-SS-Variance Denial
T.L. 1379; Sec. 25; T4S;
R2W; W.M. Marion County

Dear Mr. Johnston:

This will serve to verify that your requested variance hearing, as provided for in Oregon Administrative Rules, Chapter 340, Section 75-045, was held at 719 Hwy. 99E in Aurora, Oregon, at 9:30 a.m. on June 21, 1979.

You have requested variance from the Oregon Administrative Rules, Chapter 340, Sections 71-020(3)(a); 71-030(1)(d); and 71-030(4)(f)(F).

Variances from particular requirements of the rules or standards pertaining to subsurface sewage disposal systems may be granted if it is found that the proposed subsurface sewage disposal system will function in a satisfactory manner so as not to create a public health hazard or to cause pollution of public waters, and special physical conditions exist which render strict compliance unreasonable, burdensome, or impractical.

Your proposal, although well prepared, does not give assurance that it will overcome the limitations present at the site. Based on my review of the record, I am not convinced that the proposed drainfield will function in a manner so as not to create a health hazard. As such, I must regretfully deny your request.

Pursuant to OAR 340-75-050, my decision to deny your variance requests may be appealed to the Environmental Quality Commission. Requests for appeal must be made by letter, stating the grounds for appeal, and addressed to the Environmental Quality Commission, in care of Mr. William H. Young, Director, Department of Environmental

Quality, P.O. Box 1760, Portland, OR 97207, within twenty (20) days of the date of the Certified mailing of this letter.

I have attached a copy of my review of your variance requests. Please feel free to contact me at 378-8240, Salem, if you have any questions regarding this decision.

Sincerely,

Gary W. Messer, R.S.
Variance Officer

GWM/wr

cc: M. Chapin Milbank, Atty. at Law, P.O. Box 2205, Salem 08 w/att
cc: William H. Doak, Soil & Land Use Consultant, 7525 SE Lake Rd., Milwaukie 97222 w/att
cc: Marion County Bldg. Dept. Attn: Ted Swenson w/att
cc: Sherm Olson, DEQ Variance Coordinator w/att

STATE OF OREGON INTEROFFICE MEMO

DEQ, WVRS (DEPT.) 378-8240 (TELEPHONE)

TO: File DATE: July 5, 1979

FROM: Gary Messer, R.S., Variance Officer

SUBJECT: WQ-SS-Patrick Johnston Variance Assignment
TL 1374; Sec. 25; T4S; R2W; W.M.
Marion County

The following is a summary of my review and evaluation of the Patrick Johnston variance request:

I. Chronological Background

1. January 9, 1978: Mr. Lawrence Jensen, a prospective buyer of the property, filed an application with Marion County to have the property evaluated for septic tank approval (see Exhibit 1).

2. January 19, 1978: Mr. Robert Foster, Marion County Sanitarian, reviewed the property and observed ponded surface waters in the lower portions and water table elevations of 7 to 9 inches below ground level on the higher portions (see Exhibit 2).

3. January 20, 1978: Marion County sent Mr. Jensen a letter denying the property for construction of a septic tank system due to high ground waters (see Exhibit 1).

4. May 19, 1978: The Pioneer National Title Insurance Company of Salem issued a preliminary title report indicating Mr. Patrick Johnston was purchasing the property from H.B. Romberg (see Exhibit 5).

5. April 19, 1979: Mr. Johnston filed an application with DEQ for a subsurface sewage disposal variance (see Exhibit 3).

6. May 30, 1979: I was assigned as variance officer to hear Mr. Johnston's variance.

7. June 6, 1979: I met on the property with Mr. Johnston's soil consultant, Mr. William Doak, and Marion County Sanitarian Ted Swenson, to review the variance proposal.

8. June 21, 1979: I held the information gathering hearing at

719 Hwy. 99E in Aurora. The hearing was attended by Mr. Johnston Mr. Chap Milbank (atty.for Mr. Johnston); Mr. Wm. Doak; and Mr. Ted Swenson. The record was held open until June 28, 1979 for submission of additional information.

II. General Site Conditions

The property is a 5.13 acre parcel located in a rural Exclusive Farm Use zone. The general topography is flat with ground slopes of less than 1%. The soils on the property most nearly represent an Amity Silt Loam and the proposed system would be located on the highest and best drained portion. A typical soil profile in the proposed drainfield area would be:

0-17"	Very dark brown silt loam
17-34"	Mottled, greyish-brown silt loam to silty clay loam
34" +	Mottled, pale brown silt loam which acts as a restrictive layer to the downward movement of water

In regard to mottling, Mr. Doak and the Marion County Sanitarians agree that soils in the proposed drainfield area are distinctly mottled at depths ranging from 14 to 20 inches. They feel that during the winter and early spring months these depths are indicative of where the temporary perched water table will be. They also agree that during periods of inclement weather, the water table will fluctuate above these levels. Alternate areas on the property were not evaluated due to previous observations by both Mr. Doak and Mr. Foster which indicated more severe conditions could be expected.

The proposed disposal area was located to maintain a 100 foot separation distance from the domestic well located on the property to the west and the same separation distance would be maintained from any well that might be developed on the property.

III. Limiting Factors

During winter, rainwaters falling on the property will accumulate in the soils at a rate exceeding the subsoils' ability to drain them. Due to the flat terrain, there is little relief to provide for lateral drainage. This causes the waters to pond (perch) on top of the restrictive subsoils and create a temporarily perched water table. During a normal precipitation year (from late December through March), the water table would be expected to fluctuate around depths of 14 to 20 inches in the proposed disposal area. During inclement weather, this water table will rise to even higher elevations and has been observed at depths ranging from 7 to 9 inches (see Exhibit 2). Review of rainfall data for 1978 and monitoring observations of 1979 (compared with rainfall data for 1979) generally support the reliability of mottling and the higher fluctuations of the water table during inclement weather (see Exhibits 10 and 11).

IV. Proposed Variance

To overcome the site and ground water limitations in the proposed disposal area, the following design modifications were submitted in support of the variance (see Exhibit 9):

1. Four 110 foot long disposal trenches would be installed using an equal distribution technique to serve a 3 bedroom dwelling.

2. The disposal trenches would be installed only 12 inches deep into the original ground.

3. After trench installation, the soils in the original and repair areas would be rototilled. After tilling, approximately 500 cubic yards of topsoil would be uniformly placed so that a 12 inch cap of soil would be provided (after settling) over the disposal areas. The completed cap would have the approximate dimensions of 90 feet wide by 130 feet long by 1 foot high.

V. Review and Findings

OAR 340-71-030(1)(d) requires that a temporarily perched water table not be less than 24 inches below the surface of the ground or rise to an elevation where it would come in contact with the disposal trenches The purpose of this rule is to ensure that there will be at least 24 inches of unsaturated soils in and around the disposal areas to:

1. Provide for aerobic treatment and breakdown of the sewage effluent.

2. Provide an environment where rapid die off of sewage organisms will occur.

3. Ensure that there is no mode of transmission available to sewage organisms to migrate out into adjacent areas via contact with ground waters.

Review of the record indicates that a temporary water table can be expected in the proposed disposal area and adjacent soils for extended periods. Since the depth of this water table is shallow, it will create an anaerobic environment in the soil by filling in the soil voids normally occupied by air. During these periods, the decomposition of the sewage effluent will be significantly retarded and the soil pores can become clogged. During heavy or extended

periods of rainfall, the system would also be subjected to trench inundation with ground waters.

These two situations lead to a probability that the system would fail during these periods. The failure would most likely take the form of a lateral surfacing of untreated effluent at the edges of the capping fill; however, if the house plumbing were low, the possibility of the system backing up into the house also exists.

Since the occurrence of either of these conditions would subject the owner to a health hazard, as well as create a nuisance, the variance request should be denied.

Gary Nissen RS

wr

ATTACHMENT C

RALPH H. SCHLEGEL
M. CHAPIN MILBANK
MARK L. B. WHEELER
BRUCE E. JARMAN
DAVID A. HILGEMANN

ROBERT C. CANNON

SCHLEGEL, MILBANK, WHEELER, JARMAN & HILGEMANN
ATTORNEYS AT LAW
200 HIGH STREET S.E. — P.O. BOX 2205
SALEM, OREGON 97308

AREA CODE 503
PHONE 585-2233

July 12, 1979

William H. Young, Director
Department of Environmental Quality
P. O. Box 1760
Portland, OR 97207

Re: WQ-SS-Variance Denial
T.L. 1379; Sec. 25; T4S
R2W; W.M. Marion County

Dear Mr. Young:

Please take notice that Mr. Patrick Johnston of 17914 Arbor Grove Road, N.E., Woodburn, OR 97071, does appeal the decision in the matter of his variance denial. The date of the denial was July 5, 1979.

The variance officer failed to specifically describe wherein the temporary water table could be expected in the disposal area and adjacent soils and for what period of time. The hearings officer failed to specify his conclusions with regard to the water table or to any specific water table. The conclusions drawn by the hearings officer do not follow from the facts found by the hearings officer. The hearings officer was erroneous in his conclusion about vague and unspecified amounts of rainfall which he characterized only as heavy or unusual.

No septic tank system is required to meet disaster conditions as required by the variance officer in this matter. The facts and conclusions as found by the variance officer are not borne out by actual field conditions as shown by the evidence and the record.

The hearings officer failed to specify in any specific way how the spectic tank might create a public health hazard or pollution of public waters as required by Administrative Regulations and the pertinent statutes herein.

Very truly yours,

M. Chapin Milbank
Of Attorneys for Patrick Johnston

MCM:jmb

cc: Patrick Johnston

VICTOR ATIYEH
GOVERNOR

Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207
522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. P, November 16, 1979, EQC Meeting

Proposed Adoption of Population Projection and Disaggregration for Use in the Federal Sewerage Works Construction Grant Program for Fiscal Year 1980

Background

Federal regulations contained in 40 CFR 35, Appendix A require that the Environmental Quality Commission approve a state population projection and disaggregations for use by the DEQ in the federal Sewerage Works Construction Grants Program. In those areas where 208 areawide agencies are designated planning agencies, the projection must be disaggregated to cover the geographic area of each 208 agency. In the remainder of the state (nondesignated areas), the project must be disaggregated to the county level. Facility planning by local governments must recognize the county and/or approved 208 areawide population disaggregations.

The U.S. Environmental Protection Agency (EPA) has provided a state population control total, based on projections developed by the U.S. Bureau of Economic Analysis. A deviation of 5% ($\pm$5%) from the control total is allowed without justification. Deviations greater than 5% require justification and approval by EPA.

The DEQ prepared a population projection and disaggregation to counties and 208 agencies based on earlier work done by the Portland State University Center for Population Research and Census (CPRC). This projection was distributed to Councils of Governments and to counties on August 31, 1979. Comments were requested at that time. A public meeting notice was distributed on October 4, 1979, and a public meeting was held on October 29, 1979, for the purpose of receiving oral and written testimony.

A summary and response to all comments and oral and written testimony are presented in Attachments 1 and 2 and copies of all written material is Attachment 3. The concerns and suggestions expressed in the oral and written testimony are used in the Evaluation of Alternatives Under Consideration.

Statement of Need for Environmental Quality Commission Action

Environmental Quality Commission approval of the projection and disaggregations is necessary under federal regulations for continued eligibility for federal waste water treatment construction grants. Grants cannot be awarded after October 1, 1979, without an approved population projection and disaggregations.

Evaluation of Alternatives Under Consideration

Table A contains the essential population data necessary to prepare and evaluate alternatives. Column 1 displays the projection or statewide control total offered by EPA. Projections shown in other columns will be assessed against this control total. Column 2 displays the initial DEQ projection and disaggregations of the projection to 208 agencies and to counties. Columns 3 and 4 are based on oral and written testimony from state agencies and local jurisdictions. Column 3 indicates whether the DEQ assigned population was accepted, opposed, if there was no comment received,or if there is an LCDC acknowledged plan for that county. Column 4 indicates an alternative proposed course of action proposed in testimony. In many cases this amounts to a request for a higher county population. Column 5 is a revised projection consisting of DEQ's initial proposal (Column 2) modified to reflect LCDC acknowledged county plans. Column 6 is a new projection consisting of the Column 5 adjusted to reflect proposed revisions shown in Column 4.

Alternative 1.

Approve DEQ Initial Projection and Disaggregations (Column 2 of Table A).

For counties outside designated 208 areas the population data is taken directly from the Center for Population Research and Census (CPRC), middle-range projection. Population data for the 208 areas is based on population projections prepared and adopted by each agency at the time their 208 Master Sewerage Plans were approved by DEQ and EPA.

a. Advantages The DEQ projection is within 6% of the EPA projection and should be accepted by EPA with little justification required.

TABLE A
ALTERNATIVE POPULATION PROJECTIONS
AND DISSAGGREGATIONS

Year 2000 Projections	1 Bureau of Economic Analysis (Supplied by EPA)	2 Initial DEQ Proposed Projection (Modification of CPRC MIddle Range)	3 Hearing Responses Response to DEQ Proposed Projection	4 Hearing Responses Proposed Alternatives	5 LCDC Acknowledged Plan Projections Plus Modified CPRC Middle Range for Remaining Counties	6 DEQ Projection Adjusted by Responses
Statewide Control Total	3,209,000	3,401,394			3,402,064	3,720,963
A. Areawide Agencies						
Rogue Valley Council of Governments						
Jackson County		191,600	Consider slight Modification	196,000	191,600	196,000
Lane Council of Governments						
208 Planning area		356,241	Accept	-	356,241	356,241
Lane County		379,500	Accept	-	279,500	379,500
Mid-Willamette Valley Council of Governments						
Polk County		59,219	Oppose	83,300	59,219	83,300
Marion County		247,320	Oppose	377,000	247,320	377,000
Yamhill County		77,595	Oppose	96,600	77,595	96,600
Metropolitan Service District						
Clackamas County		364,900	Accept	-	364,900	364,900
Multnomah County		648,600	Accept	-	648,600	648,600
Washington County		348,350	Accept	-	348,350	348,350
B. Remainder of State (County Control Totals)						
Baker		20,200	No Comment Received	-	20,200	20,200
Benton		102,300	Oppose	Time Extension Requested Until Local Projection Finalized	102,300	102,300

TABLE A Continued

B. Remainder of State (Continued)
(County Control Totals)

Clatsop	38,300	Oppose	41,500	38,300	41,500
Columbia	44,800	Oppose	65,684	44,800	65,684
Coos	80,700	Oppose	92,000	80,700	92,000
* Crook	17,800	Use LCDC Acknowledged Plan Projection of 18,770	-	18,770	18,770
Curry	18,700	Oppose	35,000	18,700	35,000
Deschutes	71,900	Oppose	128,200	71,900	128,200
Douglas	114,800	Oppose	134,949	114,800	134,949
* Gilliam	1,500	Use LCDC Acknowledged Plan Projection**	-	1,500	1,500
Grant	10,400	No Comment Received	-	10,400	10,400
Harney	9,200	No Comment Received	-	9,200	9,200
Hood River	18,800	No Comment Received	-	18,800	18,800
Jefferson	14,100	No Comment Received	-	14,100	14,100
Josephine	78,300	No Comment Received	-	78,300	78,300
Klamath	75,300	Oppose	88,910	75,300	88,910
Lake	8,300	No Comment Received	-	8,300	8,300
Lane County Coastal	23,259	No Comment Received	-	23,259	23,259
Lincoln	38,100	1980 Projection Surpassed	Evaluate Projection	38,100	38,100
Linn	119,400	Oppose	Time Extension Requested Until Local Projection Finalized	119,400	119,400
Malheur	32,600	No Comment Received	-	32,600	32,600
Morrow	6,600	Oppose	Prepare New Projections	6,600	6,600
* Sherman	2,600	Use LCDC Acknowledged Plan Projection of 2,300	-	2,300	2,300
Tillamook	24,300	No Comment Received	-	24,300	24,300
Umatilla	65,200	Oppose	Prepare New Projections	65,200	65,200
Union	33,100	No Comment Received	-	33,100	33,100
* Wallowa	9,200	Use LCDC Acknowledged Plan Projection**	-	9,200	9,200
Wasco	25,200	No Comment Received	-	25,200	25,200
Wheeler	2,600	No Comment Received	-	2,600	2,600

* Comprehensive Plan Acknowledged by LCDC
** Acknowledged Plan gives no Projection for Year 2000

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b. Disadvantages This projection has been strongly opposed by counties and one 208 agency. Many counties believe the CRPC population data is badly out-of-date and does not reflect growth conditions which have prevailed in Oregon in the late 1970's. There is additional concern that their low numbers may become "fixed" by other state and federal agencies and used as a basis for planning, grants, revenue sharing, etc. Finally, the DEQ population data does not reflect new projections now developed and being developed through the comprehensive planning process.

Alternative 2.

Approve Department of Economic Development (DED) Projection

The DED projected a state total of 3,532,600 for year 2000 based largely on the CPRC middle-range projection but with a higher annual growth rate due to conditions prevailing in the late 1970's. DED has not provided a disaggregation to the county level however.

a. Advantages The DED state control total projection is superior to the CPRC projection in that it reflects recent and documented high rates of population growth in many areas of the state. The projection is 10% higher than the EPA supplied projection and could be justified through analyses already completed by DED.

b. Disadvantages A serious disadvantage is the lack of any disaggregation below the state control total. The DED would prefer not to disaggregate the projection to the county level and EPA will not approve a projection without the necessary county-by-county breakdown.

Alternative 3.

Approve DEQ Projection and Disaggregations Adjusted by Responses (Column 6 of Table A)

The projection is similar to the DEQ initial projection but incorporates new population data from local governments (Columns 3 and 4 of Table A). (This projection can also be calculated from Column 5 adjusted to include responses in Column 4.) This projection is 16% higher than the EPA supplied projection. Considerable justification would be required for EPA to approve this projection.

a. Advantages This projection reflects local projections which, in many cases, have been developed through the LCDC planning process. The local projections generally have been well thought out and reflect economic conditions prevailing during the late 1970's.

b. Disadvantages Some counties were strongly opposed to the DEQ projection but did not submit new projections. In addition, some counties requested a time extension for submittal of projections now under development. Finally, a strong justification may be needed to secure EPA approval of a projection 16% higher than the EPA supplied projection. Some local governments submitted strong justification for higher projections; others did not. If EPA does not approve this projection and disaggregations there is nothing to fall back on.

Alternative 4

Approve Population Base and Adjustments to Base

a. Approve a base projection consisting of LCDC acknowledged plan figures where they exist and the CPRC middle-range projection (adjusted for 208 areas) for all other counties (Column 5 of Table A).

b. Approve Column 4 of Table A as variances to the base subject to assurance from counties that such variances are the most appropriate population projection based on their ongoing comprehensive planning process.

c. Authorize DEQ to submit to EPA a revised projection (Column 6 of Table A) consisting of the base projection in a. above (Column 5 of Table A) with adjustments resulting from approval of variances in b. above (Column 4 of Table A) and using justification provided in the testimony.

d. In the event EPA rejects the submittal, authorize DEQ to then immediately submit the base (Column 5 of Table A), together with individual variances (Column 4 of Table A), and request immediate approval of the base and approval of each county variance.

e. Direct DEQ to approve and submit to EPA for approval, future variance requests submitted by counties, provided such requests are properly justified and certified by the county to be the population projections to be used in the county's comprehensive plan.

Advantages There is considerable uncertainty concerning the EPA review and approval process. No guidance has been provided on justifications to variance requests. Alternative 4 provides a mechanism for dealing with the uncertainty. DEQ would support local planning and submit a projection which includes proposed new population figures provided by counties and 208 agencies. If this is rejected DEQ would fall back and submit the lower base projection which should be approved with minimal justification. In addition, DEQ would submit the higher county projections as individual variance requests, together with justifications and assurance provided by the counties that the projections are based on their comprehensive planning process.

Disadvantages Alternative 4 may be unacceptable to some counties in the process of developing population projections. Some local governments would prefer to wait until reliable 1980 census data is available.

General Considerations

Under any of the alternatives the projection approved by the EQC should be carefully conditioned and limited to minimize chance of misinterpretation and misuse. Limiting conditions and explanations could be as follows:

The sole purpose of EQC approval of these projections is for determination of the extent of grant eligibility for FY 1980 federal Sewerage Works Construction Grants. An EQC approved projection is not intended in any way to mandate or limit the size or capacity of sewerage facilities to be constructed. Such size and capacity should be based on local comprehensive plans and good engineering judgment as displayed in facility plans. The EQC acknowledges and supports the role of local governments to develop and adopt population projections through the local comprehensive planning process and the responsibility of DEQ and other agencies to utilize such projections once the local comprehensive plan is acknowledged.

Position of the Policy Advisory Committee

The Policy Advisory Committee, at its September meeting, recommended that the EQC approve the DEQ projections and disaggregations for an interim period of one year and limit the use of the projections to the federal Sewerage Works Construction Grant Program only.

Summation

1. Federal regulations require that the EQC approve a state population projection and disaggregations to 208 areawide agencies where designated and to counties in the remainder of the state.

2. EQC approval of the projection and disaggregations is necessary for continued eligibility for federal waste water construction grants.

3. DEQ prepared a projection and disaggregations based on earlier work done by the Center for Population Research and Census, and on earlier projections prepared by 208 areawide agencies.

4. The DEQ projection and disaggregations are strongly opposed by one 208 areawide agency and several counties. A number of local governments have proposed higher projections.

5. The Department of Economic Development (DED) has recently prepared a statewide population projection. This projection has not been disaggregated to the county level.

6. Several alternatives were proposed for EQC consideration:

   a. Approve the original Department of Environmental Quality projection and disaggregations (Alternative 1).

   b. Approve the Department of Economic Development projection (Alternative 2).

   c. Approve the Department of Environmental Quality Projection and disaggregations adjusted by responses from local governments (Alternative 3).

   d. Approve a base projection consisting of LCDC acknowledged plan figures where they exist and modified CPRC middle-range figures for the remaining counties; approve local government increase requests as variances; authorize the Department to submit to EPA a projection consisting of the base as adjusted by approved variances, and authorize a fall back proposal in the event EPA rejects the initial submittal. (Alternative 4).

7. The Policy Advisory Committee recommended that the EQC approve the DEQ projection and disaggregations on an interim basis and for limited use only.

Director's Recommendation

Based on the summation, it is recommended that the EQC approve Alternative 4 as follows:

1. Approve a base projection consisting of LCDC acknowledged plan figures where they exist and the CPRC middle-range projection (adjusted for 208 areas) for all other counties (Column 5 of Table A).

2. Approve Column 4 of Table A as variances to the base subject to assurance from counties that such variances are the most appropriate projection based on their ongoing comprehensive planning process.

3. Authorize DEQ to submit to EPA a revised projection (Column 6 of Table A) consisting of the base projection in 1. above (Column 5 of Table A) with adjustments resulting from approval of variances in 2. above (Column 4 of Table A) and using justification provided in the testimony.

4. In the event EPA rejects the submittal, authorize DEQ to then immediately submit the base (Column 5 of Table A), together with individual variances (Column 4 of Table A) and request immediate approval of the base and approval of each county variance.

5. Direct DEQ to approve and submit to EPA for approval future variance requests submitted by counties, provided such requests are properly justified and certified by the county to be the population projections to be used in the county's comprehensive plan.

It is further recommended that EQC approval of population projections for Oregon be conditioned by the following statement:

> The sole purpose of EQC approval of these projections is for determination of the extent of grant eligibility for FY 1980 federal Sewerage Works Construction Grants. An EQC approved projection is not intended in any way to mandate or limit the size or capacity of sewerage facilities to be constructed. Such size and capacity should be based on local comprehensive plans and good engineering judgment as displayed in facility plans. The EQC acknowledges and supports the role of local governments to develop and adopt population

projections through the local comprehensive planning process and the responsibility of DEQ and other agencies to utilize such projections once the local comprehensive plan is acknowledged.

William H. Young

Thomas J. Lucas:l
229-5284
November 2, 1979
TL4274.A

Attachment 1. Bibliography and Summary of Oral and Written Testimony on Proposed Population Projection and Disaggregations for Use in the Federal Sewerage Works Construction Grant Program

2. Summary and Reponse to Oral and Written Testimony

3. Copies of Written Testimony

BIBLIOGRAPHY AND SUMMARY OF ORAL AND WRITTEN TESTIMONY ON PROPOSED POPULATION PROJECTION AND DISAGGREGATIONS FOR USE IN THE FEDERAL SEWERAGE WORKS CONSTRUCTION GRANT PROGRAM

A. Counties Within Designated Areawide Agencies

1. Rogue Valley Council of Governments (Jackson County)

Jon Deason, Jackson County Board of County Commissioners. Written Testimony, 9/18/79.

Jackson County was in basic agreement with the DEQ projections, although the county projection for year 2000 was slightly higher.

2. Lane Council of Governments (Lane County)

Gerritt Rosenthal, Lane Council of Governments. Written Testimony, 9/6/79.

The Lane Council of Governments submitted written testimony concurring with the DEQ projection for Lane County.

3. Mid-Willamette Valley Council of Governments (Marion, Polk and Yamhill Counties)

Richard Santner, Mid-Willamette Valley Council of Governments (MWVCOG). Oral presentation of letter and comments from Alan H. Hersey, Director, Mid-Willamette Valley COG, 10/22/79.

States that Mid-Willamette Valley COG has adopted their revised population for the region and its cities and these projections were transmitted to DEQ and EPA as an amendment to the currently approved 208 Master Sewerage Plan. Therefore they believe that DEQ should submit to EPA the MWVCOG projections rather than the DEQ proposed projections. This would eliminate conflict with adopted local plans.

Colin Armstrong, Chairman, Yamhill Board of Commissioners. Written Testimony 9/26/79.

Through the Comprehensive Planning process for cities in which county has done work, a slightly higher year 2000 population is projected, i.e., 84,696 (county) vs 77,595 (DEQ proposal).

4. Metropolitan Service District (Clackamas, Multnomah and Washington Counties)

Rich Gustafson, Metropolitan Service District. Written testimony 9/7/79.

The Metropolitan Service District submitted written testimony concurring with the DEQ projection for Clackamas, Multnomah and Washington Counties.

B. Counties Within Remainder of State (Nondesignated Areas)

1. Baker County No testimony was received.

2. Benton County

Dale Schrock, Commissioner, Benton County. Written testimony, 10/22/79.

The local comprehensive planning effort is not yet completed and a comparison of local forecasts on a regional basis by Oregon District 4 Council of Governments is needed. It is requested that the EQC not make a final decision at this time and grant an extension for Benton County to complete their work through the Council of Governments.

Michael M. Randolph, Public Works Director, City of Corvallis. Written testimony, 10/23/79.

Comments that Oregon District 4 COG, in cooperation with its member cities and counties, is updating and extending population projections to the year 2000. These figures will be based in detailed local information and analysis and will be used for comprehensive planning. Therefore, it is requested that DEQ delay adoption of a projection until local governments can review the COG projection. They prefer to use one set of population projections for all planning projects.

3. Clatsop County

Curtis J. Schneider, Planning Director, Clatsop County. Written testimony, 9/7/79.

Submitted an updated population report prepared for Clatsop County in May. The county has chosen the median population of 41,500 as the basis for land use planning to the year 2000, based on an indication of increased growth in the fishing industry. (This projection is 3,200 greater than the Department's proposed projection.)

4. Columbia County

Topax Faulkner, Columbia County Planning Department. Oral and written presentation, 10/29/79.

Testimony and supporting documents revealed that the average annual growth rate being used by the cities and in establishing their urban growth boundaries is 3.5%. The county anticipates

an overall growth rate of 3% per year in its Comprehensive Plan. Using a base calculation provided by PSU, Center for Population Research and Census and a 3% annual growth rate, the county projects a year 2000 population of 65,684. (This figure is 20,884 persons greater than the DEQ proposed projection of 44,800.)

Lawrence M. Conrad, Columbia County Planning. Oral presentation.

Several factors are affecting the growth rates in Columbia County and cities: (1) three industrial developments in one of the cities; (2) Columbia county has some of the few remaining deep water industrial sites along the Columbia River, and (3) a growing commuter population from Portland and migration from Longview, WA.

5. Coos County

Bill Gule, Director, Coos County Planning Department. Written testimony, 10/8/79.

Commented that the PSU "middle-range" projection used by DEQ is not consistent with trends experienced in the county between 1970 and 1978 and it is unreasonably low. Coos County Planning Commission has officially adopted 92,000 people as the year 2000 projection. This is based on the PSU "high-range" projection and is 11,300 people more than the projection proposed by DEQ.

Ross Brandis, Assistant Director, Coos-Curry Council of Governments. Written testimony, 10/26/79.

Concern was expressed that the Coos County adopted the "high-range" PSU projection of 92,000 for comprehensive planning purposes. It was stated that DEQ's proposed projections for Coos and Curry counties are inconsistent with these projections and requested that DEQ use the counties' projections.

6. Crook County No testimony was received.

7. Curry County

Robert W. Thomas, Information Officer, Curry County Oregon Board of Commissioners. Written testimony, 10/16/79.

The draft Curry County Comprehensive Plan Findings Document projections were submitted. These figures are based on An Analysis of the Curry County Census. The year 2000 projection is 35,000, whereas DEQ's proposed projection is 18,700.

Ross Brandis, Assistant Director, Coos-Curry Council of Governments. Written testimony, 10/26/79.

The Curry County Planning Department projection for the year 2000 is 35,000. It is requested that DEQ adopt the county's projection developed through its comprehensive planning process.

8. Deschutes County

Denny Newell, Coordinator-Director, Central Oregon Intergovernmental Council. Written testimony, 10/25/79.

Concern is expressed that the DEQ proposed projection is significantly understated based upon current population estimates and forecasts for future growth. It is recommended that the population forecasts prepared for the new Deschutes County Comprehensive Plan or those developed by Pacific Economica be used instead. The Deschutes County Comprehensive Plan projection for year 2000 is 128,200; the Pacific Economica projection is 125,500.

Board of Commissioners, Deschutes County. Written testimony, 10/22/79.

Objects to the proposed population projection for Deschutes County, since other sources indicate it is an underestimate and the PSU Center for Population Research and Census medium estimate for Deschutes County has been shown to consistently underestimate the county population. PSU's 1980 figure of 50,900 is already surpassed. The Commissioners propose that either the county's projection or the figure developed by Pacific Economica be used.

Arthur A. Johnson, City Manager, City of Bend. Written testimony, 10/19/79.

Comments that the PSU figures historically have been low and recent projections developed by several different agencies indicate higher rates of growth for the county than proposed by DEQ. (PSU's year 2000 "middle-range" projection is 71,900, whereas the year 2005 projection contained the facilities plan for Bend and approved by DEQ and EPA is 66,000).

9. Douglas County

Shannon Davis, Umpqua Regional Council of Goverments. Oral testimony.

Comments that the proposed projection for Douglas County is in conflict with local projection and current and future facility planning. The COG urges DEQ to use local comprehensive plan projections, since DLCD gives the local governments the responsibility of population projections.

Board of Commissioners, Douglas County. Written testimony, 10/9/79.

Comments that the proposed projections conflict with local trends, historic population trends and public facilities. The figure of 114,800 for the year 2000 is unrealistically low

Paul Howard, Umpqua Regional Council of Governments. Written testimony, 9/20/79.

Provided a recent population study for Umpqua Regional Council of Governments indicating that PSU's projections are inadequate to account for population changes in the late 1970s. Douglas County and its cities have used the study figures for land use, water resources, and public facilities planning. It was recommended that DEQ (1) adopt local planning projections from each county or 208 agency, (2) aggregate for statewide control total, (3) sponsor a study to provide EPA the justification for a higher than recommended control total.

10. Gilliam County No testimony was received.

11. Grant County No testimony was received.

12. Harney County No testimony was received.

13. Hood River County No testimony was received.

14. Jefferson County No testimony was received.

15. Josephine County No testimony was received.

16. Klamath County

Floyd L. Wynne, Board of County Commissioners. Written testimony, 9/28/79.

Klamath County entered written testimony requesting that DEQ use a population projection prepared through the comprehensive planning process. A justification for the projection was also provided. The Klamath County year 2000 projection is 88,910, compared with the DEQ projection of 75,300.

17. Lake County No testimony was received.

18. Lane County Coastal No testimony was received.

19. Lincoln County

Jean Bradshaw, Secretary to Board of County Commissioners, Lincoln County. Written testimony, 9/5/79.

Lincoln County indicated that the DEQ 1980 population estimate was low. It was suggested that DEQ may change the projection for 1990 and 2000.

Jan Monroe, City Planner, City of Newport. Written testimony, 8/17/79.

A report, Preliminary Report of the Oregon 2000 Commission, January, 1979, states that the projections prepared by the Center for Population Research and Census are inaccurate. The city indicates that there are no accurate forecasts for the Newport area. It was recommended that a new projection be prepared for Oregon by sub-areas.

20. Linn County

Elaine Smith, Linn County Planning and Building Department.

Linn County Planning and Building Department submitted written testimony indicating that the DEQ projections are too low. It was requested that a decision on population projections for Linn County be deferred for two months to allow for completion of local projections.

Jack Lesch, Oregon District 4 Council of Governments

District 4 COG submitted written testimony requesting a time extension to allow for completion of population work now underway in Linn and Benton Counties.

Sharon Kelly, City of Albany

The City of Albany submitted written testimony indicating that the DEQ projections are too low. It was requested that a time extension be given to allow for completion of local projections.

21. Malheur County No testimony was received.

22. Morrow County

Vernon Stewart, Major, City of Irrigon. Written testimony, 10/26/79.

Comments that the city disagrees with the projections for both Morrow and Umatilla Counties and that Morrow County has already

exceeded its forecasted population for the year 2000. The percent increase per year for 1978 is 17%. Since Irrigon has recently received authorization to revise a Step 1 Facility Plan, it is concerned that a debate on population estimates may impact the project plans.

23. Sherman County No testimony was received.

24. Tillamook County No testimony was received.

26. Umatilla County

Stephen R. Lindstrom, Port of Umatilla. Oral presentation.

The Port of Umatilla disagrees with the proposed state population projection and disaggregation and urges the EQC develop new more realistic projections before submitting them to EPA. The reasons are as follows:

a. EPA's Bureau of Economic Analysis (BEA) projections put Oregon at a disadvantage when competing with other states for construction grant money. The BEA numbers deemphasize migration as a factor in population projections. Seventy-six percent of the growth in Umatilla County during the 1970s is attributable to migration.

b. The statistics used by PSU in developing the proposed projection are antiquated and do not reflect today's population, much less a realistic year 2000 projection.

c. The 1980 federal census will provide preliminary data and could be used by DEQ in developing a more accurate projection.

d. Adoption of the proposed projection will legitimize the numbers, become the basis for approving local plans, and be used as leverage to reduce local government, state agency and special district estimates of future population projections.

It was expressed that a few months delay in gathering new data would take no longer for EPA to provide money for local projects than adoption of the numbers with "disclaimers" and variances which will require detailed justification.

Richard J. Schulberg, East Central Oregon Association of Counties. Oral presentation.

Concern was expressed that the projections developed by PSU for Morrow and areas of Umatilla Counties utilized data which were

taken during a time when the economic base of the counties were not fully realized. Anticipated economic development with respect to agriculture, food processing and power will dictate population gowth. Methods used by ECOAC to formulate draft projections include a combination of the historical trend method and an analysis of future economic growth. Concern was also expressed that the projections will have an impact on LCDC and other agency decisions and it was suggested that the DEQ and EQC develop more accurate population projections with local communities and other agencies which take into account the unique characteristics of rural areas.

F. K. Starrett, Chairman, Umatilla County Board of Commissioners. Written testimony, 9/7/79.

Concern was expressed that the county is experiencing a far greater growth rate than the 1976 CPRC data assumes. The CPRC reliance on 1970-75 county trends is not adequate to reflect the actual county growth pattern. It is suggested that future efforts toward reasonable projections acknowledge (1) that diminished land resources in Western Oregon will focus development opportunities in Umatilla County, (2) anticipated major development projects unique to the area and (3) state growth policies have potential to modify existing population documents

27. Union — No testimony was presented.

28. Wallowa — No testimony was presented.

29. Wasco — No testimony was presented.

30. Wheeler — No testimony was presented.

C. State Agencies

Gerald E. Wood, Department of Economic Development. Oral and written testimony, 10/29/79.

Gerald Woods entered written testimony on behalf of Laila Culley, Research Division Manager for the Department of Economic Development.

The analysis contained in Ms. Cully's testimony indicates that the state's growth rate through the 1970s has been much higher than expected. Further, the Oregon Center for Population Research and Census (CPRC) medium range projection does not reflect these higher growth rates.

Ms. Culley prepared a new state projection, based on a modification of the CPRC medium range projection. Estimates made for year 2000 reflect an annual average growth rate of 1.64% compared to a rate of 1.32% in the CRPC projection.

The Department of Economic Development believes that given the actual growth of the Oregon Population and Economy, a 1.64 annual growth rate, 1978 to 2000, is a reasonable projection.

W. J. Kvarsten, Department of Land Conservation and Development. Written testimony, 10/26/79.

The DLCD requested that DEQ use population projections contained in plans already acknowledged by the Land Conservation and Development Commission (LCDC). Counties included in this category are Crook, Gilliam, Wallowa and Sherman.

In reviewing comprehensive plans DLCD will utilize the following procedure: (1) DLCD will check the plan projection against the DEQ projection, (2) if the two projections differ, DLCD will determine whether the jurisdiction plan addresses how any stated additional needed capacity will be provided.

By phone conversation with DLCD staff the following county population projections were included in LCDC acknowledged local comprehensive plans:

	1980	1985	1990	1995	2000
Gilliam	--	4,100	--	--	--
Wallowa	--	--	--	8,400	--
Crook	12,900	--	15,530	--	18,770
Sherman	2,100	--	2,200	--	2,300

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TL4274.1
November 7, 1979

Summary and Response to Oral and Written Testimony

The staff concludes that respondents overwhelmingly object to the Department's proposed state population projection and disaggregation for the year 2000.

An evaluation of the testimony reveals three major concerns. These are summarized as follows:

1. The proposed figures are based upon inaccurate data and are out of date: Many respondents expressed concern that the figures, which are based upon a population analysis conducted by the Center for Population Research and Census (CPRC) at Portland State University, are inaccurate because the base year used in projecting the year 2000 population does not account for recent growth patterns. Also, the projections do not allow for migration into the state or anticipated economic development trends in various parts of the state. Respondents note that several other sources of projections utilize different data, and by comparison, the CPRC "middle-range" projection proposed by DEQ is too low. It was expressed that current populations in several cities and counties already surpass their CPRC 1980 projections.

2. Proposed projections are inconsistent with those contained in local comprehensive land use plans : Many respondents supplied DEQ with year 2000 population projections developed for local comprehensive planning purposes with comments that DEQ's disaggregation figures are lower than their own local projections. Some respondents noted that their local plans are still being developed and requested time extensions to supply their projections to DEQ. In addition, some expressed that they prefer to use a single population projection for the year 2000 to be consistent with all of their other planning activities.

3. Projections may be used for purposes other than determining the extent of eligibility for sewerage works construction grants: Concern was expressed that since the EQC would be the first authoritative state body to adopt population projections, these figures could become "legitimized" and may be used by other federal and state agencies to limit the ability of local governments and special districts to make and use their own projections. For example, reviewers of local comprehensive plans may require use of DEQ figures for all planning activities. In addition, since a disparity between the DEQ proposed projection and those developed by other entities already exist, respondents believe it will be difficult for them to justify a higher figure following EQC adoption of a lower projection and thereby limit the size and capacity of future sewerage treatment facilities.

In addition to the objections, most respondents offered suggestions which addressed their concerns and requested that DEQ consider one or more of the following alternatives:

1. Use the Department of Economic Development's projection which utilizes a more current base year for its computation and is more indicative of recent trends in the state.

2. Delay EQC adoption of the proposed DEQ projection and disaggregations until such time as either new data can be compiled or until a different method of projecting populations which reflects current trends is developed. Some respondents suggested DEQ take a lead role in coordinating this task with state and local governments and special districts for the purposes of utilizing other data and reaching a concensus projection.

3. Accept population projections developed by local governments for LCDC comprehensive land use plans. This would allow non-designated areas the same avenue of local input to population projections as provided to 208 designated areas. It also would more accurately reflect economic development activities which are occurring or anticipated in a local jurisdiction.

The Department concurs that all of the expressed concerns are legitimate. The staff cannot argue the reliability or accuracy of the proposed projections since none are experts in the field of population research methodology. However, it is for this reason that the Department proposed the projections developed by the Center for Population Research and Census, a recognized state agency responsible for making annual population projections for revenue disbursements. In addition, the CRPC "middle-range" projection and disaggregations are within six percent of the Bureau of Economic Analysis projection provided by EPA. The Department believed that little effort would be required to justify the additional one percent above the five percent deviation allowed by EPA. Since the state relies on the CPRC projection for revenue disbursement, DEQ viewed its use of these figures for sewerage works construction grants as consistent with state policy. Also, the proposed projection for the year 2000 has been disaggregated into county projections and, therefore, fulfills EPA's requirements under 40 CFR(35) Appendix A.

In responding to the suggested alternatives, the Department believes it must also evaluate the public's recommendations in terms of their impact on the sewerage works construction grants program and meeting EPA requirements.

The Department of Economic Development's population projection has its advantages in that it reflects recent growth trends. The DED study results also provide adequate justification for being ten percent over the Bureau of Economic Analysis projection. However, this projection is six percent less than the composite of projections contained in local comprehensive land use plans. DEQ does not know how local governments would respond to this figure, nor how it would be disaggregated by county to meet EPA requirements for the grant program and also be acceptable to local governments.

With respect to Alternative 2, a delay in submitting a population projection and disaggregations could result in withholding of federal funds to projects on the state's Sewerage Works Construction Grants Priority List until such time as EQC approved figures are accepted by EPA.

The Department is currently anticipating $43.5 million in funds for FY 80. Seventy-four percent of this amount is scheduled to be awarded for project construction, with twenty-six percent to be held in set-asides and reserves. Although two respondents felt that the time involved to develop new figures would be no greater than the time it would take local governments to justify variances from a DEQ base figure, the Department believes otherwise. Not only would projects anticipating FY 80 funding be delayed, many local governments have completed population projection studies as part of a local comprehensive land use planning. A new program to develop projections based on local government and special district input would be duplicative.

One may argue that population projections developed by local governments are over estimates, however, the fact remains that LCDC has recognized the role of local governments in developing population projections and it is the responsibility of DEQ and other state agencies to utilize such projections once local comprehensive plans are acknowledged. For these reasons, the third alternative appears to be the most reasonable.

The only major disadvantage is if EPA would not accept the higher projection. The aggregation of local plan projections from comments received to date is sixteen percent higher than the BEA projection supplied by EPA. Although EPA states they will accept a greater than five percent deviation provided that it is justified, no guidance material is available as to the type and extent of justification needed. Although most projections being developed for local comprehensive plans either use a variation of the CPRC method (i.e. more recent base year or growth rate figure) or the CPRC "high-range" projection, there is no guarantee that EPA will accept comprehensive planning as justification for higher figures. Therefore, in an effort to prevent a delay in the award of construction grant monies, a compromise alternative which accommodates public and DEQ concerns is recommended as follows:

1. Modify the DEQ proposed CPRC "middle-range projection to reflect those projections in four county comprehensive land use plans which have been acknowledged by LCDC, i.e., Sherman, Gilliam, Wallowa, and Crook counties.

2. Request the EQC adopt these projections as a base and also approve, as variances, those requests from counties which have submitted new figures. Approval of these variances should be subject to assurance from counties that such figures are the most appropriate estimate based on their ongoing comprehensive planning process.

3. Submit to EPA a revised projection consisting of the base projection with adjustments resulting from approval of variances and using justification provided in the testimony.

   Should EPA reject this submittal, the DEQ then would immediately submit the base population projection and disaggregations, together with individual variances and request EPA approval of the base and approval of each county variance. For those counties which have not yet submitted testimony requesting a variance, the Department intends to ask EPA to approve future variance requests submitted by counties, provided that they are properly justified and certified by the county to be the population projections for their local comprehensive plan.

In order to alleviate the concern that these population figures may be used to limit the size or capacity of sewerage facilities rather than to determine the extent of grant eligibility for FY 1980 federal sewerage works construction grants, the following paragraph should be included in EQC adoption of population projections:

> The sole purpose of EQC approval of these projections is for determination of the extent of grant eligibility for FY 1980 federal Sewerage Works Construction Grants. An EQC approved projection is not intended in any way to mandate or limit the size or capacity of sewerage facilaities to be constructed. Such size and capacity should be based on local comprehensive plans and good engineering judgment as displayed in facility plans. The EQC acknowledges and supports the role of local governments to develop and adopt population projections through the local comprehensive planning process and the responsibility of DEQ and other agencies to utilize such projections once the local comprehensive plan is acknowledged.

MMH:l
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11/7/79

Attachment 3

Copies of written testimony submitted by counties, state agencies, 208 areawide agencies and other councils of governments are quite lengthy and not attached. They are available upon request by contacting DEQ's Water Quality Division, P. O. Box 1760, Portland, Oregon 97207; phone 229-6493.

OREGON ENVIRONMENTAL COUNCIL

2637 S.W. WATER AVENUE, PORTLAND, OREGON 97201 / PHONE: 503/222-1963

November 16, 1979

Environmental Quality Commission
Department of Environmental Quality
PO Box 1760
Portland, Oregon 97207

Dear Commissioners:

The Oregon Environmental Council wishes to reaffirm its support for your adoption of the proposed noise control regulations for airports.

We urge your adoption of these rules and strongly believe anything less would be inadequate. We also strongly support the concept of the Idn study area.

We have appreciated your concern and attention to our previous comments regarding this issue.

Cordially,

Jean Baker

Jean Baker
Board Member

Rec'd 11/16/79
02

Port of Portland

Box 3529 Portland, Oregon 97208
503/231-5000
TWX: 910-464-6151

November 15, 1979

Joe B. Richards
Albert H. Densmore
Ronald M. Somers
Fred Burgess
Mary Bishop
Environmental Quality Commission
P.O. Box 1760
Portland, OR 97207

PROPOSED NOISE CONTROL REGULATION FOR AIRPORTS - NOVEMBER 16 EQC MEETING

Improvements have been made to the proposed Noise Control Regulations for airports, by clarifying procedures and by the recognition that certain land use measures are not appropriate outside the Ldn 65 area. However, the basic concerns the Port has with the rule are still not addressed.

The Port still does not believe that the regulation is warranted by the nature of the noise problem at PIA. Significant reductions in noise levels will not generally occur as a result of this rule. The criteria for Commission approval of Noise Abatement Programs added to the rule implicitly recognize this fact. Reduction of the numbers of individuals exposed to various noise levels is not a criterion for program approval under the rule. The proposed rule still implies all noise complaints within the noise impact boundary can be prevented or solved and thus raises expectations which may not be met.

The staff report recognizes the work that has and is being done at airports to control noise impacts within the Ldn 65 contour under FAA guidance. DEQ staff states the need to go beyond the Ldn 65 and address the moderate noise impact areas; however, there is no direct mechanism in the rule to prevent location of new noise sensitive uses around airports in the Ldn 55 to 65 area. The airport proprietor is still given responsibility for developing land use plans, including zoning and revision of comprehensive plans within the Ldn 55, despite the fact that most proprietors have no authority to implement such actions.

The Port has established an airport noise abatement program as a result of the PIA Master Plan. We have and will continue to work with the FAA, military, airlines and local governments to prevent or correct noise

problems to the greatest extent possible. As we have stated previously, efforts will be concentrated on the area of significant noise impact as identified by several federal agencies--the Ldn 65.

In summary, we cannot support the adoption of this rule. The concerns we have raised previously regarding the need for the rule, the potential false expectations created by the rule, and the fact that the airport proprietor is not the proper agency for land use planning outside the Ldn 65, still stand.

Lloyd Anderson
Executive Director

cc: Glenn Jackson
Anthony Yturri
Fred Klaboe
Pat Amedeo

PL12L-R

Rec'd 11/16/79
QS

VICTOR ATIYEH
GOVERNOR

State of Oregon Aeronautics Division

3040 25th STREET S.E., SALEM, OREGON 97310 PHONE 378-4880

November 16, 1979

Mr. Joe B. Richards, Chairman
Environmental Quality Commission
P. O. Box 10747
Eugene, OR 97401

Dear Mr. Richards:

Please understand that we sincerely appreciate the responsiveness of the Commission and the staff to the suggestions and comments we have presented on the Proposed Noise Control Regulations for Airports. Several of our recommendations, as well as some other good ideas, have been incorporated in the present version of the Proposal and for that we are pleased. However, there still exists an area of major concern to us and that is the issue of noise monitoring and field verification of mathematical models used to calculate the required contours.

While we are not exactly happy with every detail of the current Proposal, we think we can live with it, and support most of it, with the exception of the specific areas covered by the following comments:

1. On page four of the October 31 Staff Report, the Department of Environmental Quality (DEQ) claims that mathematical models may be incorrect because they are based on "published" flight tracks rather than actual tracks. Monitoring won't do anything to correct this situation - if you have inaccurate input to the model, the output will be wrong. You correct the problem by inputing the correct flight path, not by noise monitoring.

2. In the same reference, DEQ states that several models are acceptable and each has its advantages and disadvantages. We suggest that DEQ give recommendations as to the acceptable models and list what the "advantages and disadvantages" are.

3. Finally, if the monitoring requirement is to be left in, we would strongly suggest wording as follows:

   (7) Airport Noise Monitoring. The Department may request certification of the airport noise impact boundary by actual noise monitoring, where it is deemed necessary to approve the boundary pursuant to 35-045 (3)(e).

We trust you will ask the staff to re-examine and reconsider their position on this critical issue.

We thank you again for your courtesies and cooperation in this project that is so important to all of us and we look forward to working with you and the staff in successful and realistic implementation of the Regulations, once they are adopted.

Sincerely,

Paul E. Burket

PAUL E. BURKET
Aeronautics Administrator

PEB:cal

cc: Tony Yturri
Jim Russell
Pat Amedeo
F. B. Klaboe
Lloyd Anderson
Bill Young
Robert O. Brown

Medford Oregon
Nov. 8. 1979

Jay Richards
Chairman of environmental
Commesion
P.O. Box 10747
Eugene Ore 97401
Dear Sir
In regeards to the
Rogue Valley Mall
development by Ernest W-
Hahn Inc.
I feel this project should
not be built at its
present location as it
is in one of the areas of
Medford where there is a
bad air controll problem
now. it will only
put a bigger burden on
the lung payers of Medford
and Jackson county.

the money proposed to be given to the area by the developer is so small a amount it can only add to our problems. and even as tax payers will have to carry the load for them.

Yours Sincerely
M L Woodworth
1225 Siskiyou Blvd
Medford Or 97501

Tel 772-2243

November 8, 1979

Mr, Joe B. Richards, Chairman
Environmental Quality Commission
P. O. Box 10747
Eugene, OR 97401

Dear Mr. Richards:

Relative to the proposed "Noise Regulations for Airports."

I have a strong concern for the dangers posed to my individual rights as a citizen whenever new or additional regulations are proposed which affect any segment of the citizenry.

I have a particular concern when those proposed regulations are laced with ambiguities and thereby subject to the arbitrary interpretation of an individual within a department who does not answer to my vote.

For these reasons and others I wish to inform you that I concurr 100% with the "Statement" by Paul E. Burket, Aeronatics Administrator, Oregon D. O. T.,dated October 19, 1979.

I would very much appreciate it if you would register my position with all concerned bodies to this issue.

Respectfully yours,

Ray Joyner
P. O. Box 846
Corvallis, OR97330

c.c. Paul E. Burket

RAMBLING ROTORS, INC.
COMMERCIAL HELICOPTERS

PHONE 963-5644
RT. 2, BOX 2744
LA GRANDE, OREGON
97850

November 9, 1979

Joe B. Richards, Chairman
Environmental Quality Commision
P.O. Box 10747
Eugene, OR 97401

I wish to respond to the Environmental Quality Commission, on noise regulations for airports.

Lest you not forget that all airports were layed out geographically to corresponde with town and city, so as to not cause a hazard to surrounding properties; this also includes noise. As of modern day; airports attract industry, this creates much activity by people, autos, and developments of housing. In any event the airport should maintain priority over all other developments. If the reports on this study indicate as I read them; the airport is to blame for all of the expanded and demanded activities surrounding it.

You have certainly lost sight of the need for airports. Whether you fly or not, is not important, but airports are a necessity to all communities, those who have them; want to keep them and those who don't have them are trying to get the airport built.

You are making a big issue out of a very small problem, only a few airports have a noise problem. And you have no control of that, because it is military aircraft; so if you really want to solve the noise at airports you will be faced with a monster; (the Military). To attempt to push for noise controls to all parts of this state is a waste of tax payers monies; it adds to inflation, creates more leaches on government payrolls, and destroys the will to expand and develope new jobs.

So, let's face up to the real problem. With people on the move, and transportation being crippled by energy costs, the impact on industry and day to day business, has led to the need for more airports; not less.

Helicopters; in particular are being purchased at an excellerated pace; far beyond any expectation. Therefore; you must keep an open mind about airports and airport problems; after all the squawking minorities cannot continue to make policy for all of us who feed them and give them their daily spending money.

Respectfully,

William Knight

William L. Knight, President

WLK/jlo

6/14/79

Mr. Joe B. Richards
Environmental Quality Comm.
P.O. Box 10417
Eugene, Ore. 97401

Dear Mr. Richards:

As the owner of Lone Oaks Ranch Airport I would like to make some comments of the DEQ Proposed Noise Regulations.

Lone Oaks Ranch Airport was established only AFTER we had gotten Approval of the Linn County Planning Commission and WRITTEN SIGNATURES of All the Residents Affected by the Airport.

Lone Oaks probably has less than 50 Flights a year in and out and I feel to go to the costly expense of doing what DEQ proposes is Absurd to say the least.

Lone Oaks is A PRIVATE AIRSTRIP housing only three AIRCRAFT and I can't imagine causing A Noise Problem.

Thank You For Your Consideration

Pat Eckmann
owner Lone Oaks Ranch.

PS: Just Checking log Flights in an out of Lone Oaks Ranch 6-1-78 thru 5-31-79 was a TOTAL of 31

Nov. Cond 79

City of Corvallis
INCORPORATED JANUARY 1857

CORVALLIS CITY HALL
501 S.W. MADISON AVENUE
CORVALLIS, OREGON 97330

MAYOR'S OFFICE *(503) 757-6985*

December 7, 1979

Mr. John E. Borden
Manager
Willamette Valley Region
Department of Environmental Quality
1095 25th Street S.E.
Salem, OR 97310

Dear Mr. Borden:

On November 28, 1979, the Department of Environmental Quality held a hearing in Corvallis at the request of Evans Products Company pursuant to your permit number 02-2203, application number 1616, dated August 20, 1979. The hearing was held in regard to a permit application for an air contaminant discharge permit for the Evans Products Submicroporous Battery Separator Plant. Both the staff report discussing the contaminant, prepared October 22, 1979, and the testimony developed by concerned parties in the area raised some questions about the amounts of fugitive trichlorethylene (TCE) being released into the atmosphere.

Based upon the testimony given at the public hearing, the City Council at their regular meeting December 3, 1979, voted 5-4 to request the DEQ not to issue the final permit until the questions raised about the amounts of fugitive emission in relationship to the amounts captured in their pollution control devices are answered. It was the Council's position that additional testing and evaluation should clearly demonstrate that the public's health is not endangered. This request should not be construed as requesting a shutdown of the operation, only a delay until adequate assurances are given to the affected population group.

Thank you for your consideration in this matter. If you require additional information, please contact Mike Randolph at 757-6903.

Sincerely,

Alan Berg

Alan Berg
Mayor

AB:MMR:msm

cc: Mr. B.E. Mikulka
City Manager Pokorny
Public Works Director Randolph
Members of the City Council

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
DEC 11 1979
SALEM OFFICE

N00.79

VICTOR ATIYEH
GOVERNOR

Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207
522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

December 14, 1979

Colonel Terence J. Connell
District Engineer
U. S. Army Engineer District, Portland
CORPS OF ENGINEERS
P. O. Box 2946
Portland, OR 97208

Dear Colonel Connell:

We have been advised that you have received a resolution of the Oregon Water Policy Review Board dated November 30, 1979 which requests initiation of studies to accomplish the allocation of sufficient upstream storage to assure flows in the Willamette River of 6000 cubic feet per second measured at Salem, Oregon, for the purpose of water quality control.

The Environmental Quality Commission has primary responsibility for water quality control in Oregon. Our Water Quality Management Plan for the Willamette Basin, adopted in December 1976, is based on a flow of 6000 cubic feet per second (cfs) at Salem as necessary for water quality maintenance and protection.

Waste treatment levels in the Willamette Basin are already more stringent than the national federal minimums of Secondary or Best Practicable Treatment. We are acutely aware of the costs to cities and industries of even more stringent treatment levels that would be necessary if flows were reduced below 6000 cfs.

We therefore wish to fully support and join with the Oregon Water Policy Review Board in their resolution of November 30, 1979 requesting the Willamette Basin Study. We further offer the assistance of this Commission and the staff of the Department of Environmental Quality.

Sincerely,

Joe B. Richards, Chairman

Honorable Albert H. Densmore, Vice Chairman

Ronald M. Somers

Fred J. Burgess

Mary V. Bishop

HLS:ak

cc: Governor Atiyeh
Members of the Oregon Congressional Delegation
Water Policy Review Board