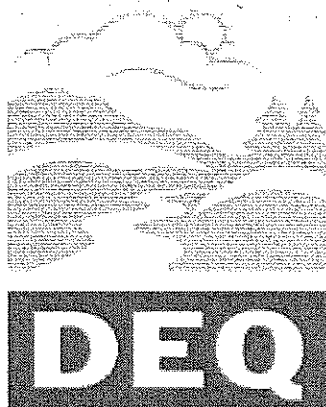


12/31/1980

OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS



State of Oregon
Department of
Environmental
Quality

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MINUTES OF THE SPECIAL MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

December 31, 1980

On December 31, 1980, the Oregon Environmental Quality Commission convened a special conference call meeting. Connected by conference telephone call were Commission members Mr. Joe B. Richards, Chairman; Mr. Albert H. Densmore, Vice-Chairman; Mr. Ronald M. Somers; Mr. Fred J. Burgess; and Mrs. Mary V. Bishop. Present in the DEQ headquarters offices in Portland were Mr. William H. Young, Director; Mr. Ray Underwood, Department of Justice; and several members of the Department staff.

SUBJECT: Request for a Temporary Rule to Permit Residential Backyard Burning in Columbia County and Rural Areas of Clackamas, Washington and Multnomah Counties

Commissioner Somers requested that a change in language be made in the Summation portion of the staff report. It was agreed among the Commission members that the first paragraph of the Summation would thus read:

"1. As the result of a public hearing conducted by the Environmental Quality Commission on December 19, 1980, a ban on residential backyard burning was [imposed] reaffirmed throughout Multnomah, Clackamas, Washington and Columbia Counties."

(Note: Bracketed language is to be deleted; underlined language is to be added.)

Bruce Hammack, 7320 S. W. Brenne, Portland, appeared and spoke in opposition to the ban on backyard burning in general.

Summation

1. As the result of a public hearing conducted by the Environmental Quality Commission on December 19, 1980, a ban on residential backyard burning was reaffirmed throughout Multnomah, Clackamas, Washington and Columbia Counties.
2. This Commission action extended the ban into areas not previously restricted to the twice-per-year burning. These areas have limited or no waste disposal service. It is believed much of the material will be deposited in roadside ditches or become fire hazards.
3. On December 24, 1980 the Department met with fire district and governmental representatives from the subject counties and confirmed that a ban in the previously unrestricted areas would result in personal hardship due to limited or no garbage service, and to lack of available landfills. In addition, concern was expressed that wastes would be deposited in roadside ditches or become fire hazards.
4. It was the consensus of representatives at the meeting that a temporary rule be requested as soon as possible to permit burning in the previously unrestricted areas.

5. The Department concurs that the Environmental Quality Commission adopt a temporary rule of 180 days duration, beginning January 1, 1981, which removes the ban in the areas listed in attachment No. 3.

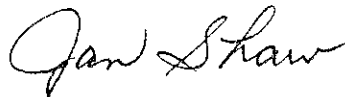
Director's Recommendation

Based upon the Summation, it is recommended that the Environmental Quality Commission find that the imposition of a ban on residential backyard burning in those areas listed in attachment No. 3 will result in serious prejudice to the public interest. Therefore, it is recommended that the Commission adopt a temporary rule of 180 days duration beginning January 1, 1981, which removes the subject ban in those areas listed in attachment No. 3.

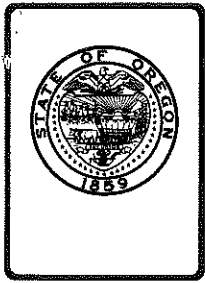
It was MOVED by Commissioner Somers, seconded by Commissioner Bishop, and carried unanimously that the Director's Recommendation be approved.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Jan Shaw
Recording Secretary



Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Request for a Temporary Rule to Permit Residential Backyard Burning in Columbia County and Rural Areas of Clackamas, Washington and Multnomah Counties

Background

At its December 19, 1980 meeting, the Environmental Quality Commission (EQC) conducted a public hearing to consider a Department recommendation that a spring backyard burn period be allowed in 1981. The purpose in requesting the extension was to provide additional time for staff to complete a report on reasonable alternatives; the associated economics; energy balance; and recommended boundaries.

The action taken by the Commission was to accept the staff report and Director's recommendation with the exception of item No. 7 in the summation of the staff report (attachment No. 1).

This action reaffirmed a ban on residential backyard burning in all areas of Multnomah, Clackamas, Columbia, and Washington Counties effective December 31, 1980.

In anticipation that such a broad ban area may create some degree of hardship for certain previously unrestricted areas, the Department met with fire districts and governmental representatives on December 24, 1980 (attachment No. 2) to assess any problems which may arise in the four county area.

The consensus of those representatives in attendance (and several who commented by phone) was that those areas not previously limited to the twice per year burn program would be severely affected and needed immediate relief. The effect of the ban stems from the fact that these areas (listed below) have infrequent or no waste disposal service. As the City of Clatskanie reported, the nearest landfill is 40 miles away. A number of the representatives stated their belief that this material will end up in roadside ditches and/or become fire hazards on individual properties.



Contains
Recycled
Materials

The following areas were not previously limited to twice per burning periods and considered to need relief:

Multnomah County

East of the Sandy River.

Columbia County

Entire county.

Washington County

In the Timber and Tri-City Rural Fire Protection District and in all other areas, outside of rural or municipal fire protection districts.

Clackamas County

In the following rural fire protection districts (RFPD):

- (a) Clarkes RFPD.
- (b) Estacada RFPD.
- (c) Colton-Springwater RFPD.
- (d) Molalla RFPD.
- (e) Hoodland RFPD.
- (f) Monitor RFPD.
- (g) Scotts Mills RFPD.
- (h) Aurora RFPD.
- (i) All portions of the Clackamas-Marion Fire Protection District within Clackamas County.

A map of the above areas is included as attachment No. 3.

Based upon the above cited discussions, it is the Department's opinion that prior to January 1, 1981, a 180-day temporary rule should be adopted by the Environmental Quality Commission which excludes those above areas from the prohibition of residential backyard burning.

Authority

Oregon Revised Statute (ORS) 183.335 Notice requirements for rule adoption; temporary rule adoption, amendment or suspension;.....(5) states:

- (5) Notwithstanding subsections (1) to (4) of this section, an agency may adopt, amend or suspend a rule without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, if the agency prepares:
 - (a) A statement of its findings that its failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned and the specific reasons for its findings of prejudice;

- (b) A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;
- (c) A statement of the need for the rule and a statement of how the rule is intended to meet the need; and
- (d) A list of the principal documents, reports or studies, if any prepared by or relied upon by the agency in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection.

Summation

1. As the result of a public hearing conducted by the Environmental Quality Commission on December 19, 1980, a ban on residential backyard burning was imposed throughout Multnomah, Clackamas, Washington and Columbia Counties.
2. This Commission action extended the ban into areas not previously restricted to the twice per year burning. These areas have limited or no waste disposal service. It is believed much of the material will be deposited in roadside ditches or become fire hazards.
3. On December 24, 1980 the Department met with fire district and governmental representatives from the subject counties and confirmed that a ban in the previously unrestricted areas would result in personal hardship due to limited or no garbage service, and to lack of available landfills. In addition, concern was expressed that wastes would be deposited in roadside ditches or become fire hazards.
4. It was the consensus of representatives at the meeting that a temporary rule be requested as soon as possible to permit burning in the previously unrestricted areas.
5. The Department concurs that the Environmental Quality Commission adopt a temporary rule of 180 days duration, beginning January 1, 1981, which removes the ban in the areas listed in attachment No. 3.

Director's Recommendation

Based upon the Summation, it is recommended that the Environmental Quality Commission find that the imposition of a ban on residential backyard burning in those areas listed in attachment No. 3 will result in serious prejudice to the public interest. Therefore, it is recommended that the Commission adopt a temporary rule of 180 days duration beginning January 1, 1981, which removes the subject ban in those areas listed in attachment No. 3.



William H. Young

Attachments:

- EQC staff report 12/19/80
- List of representatives at meeting on 12/2/80
- Map of areas affected by ban
- Citation of statutory or other legal authority
- Statement of need for the rule
- Temporary Rule

TRB:VT

T.R. Bispham

229-5342

December 26, 1980



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

Dept. of Environmental Quality

RECEIVED
DEC 12 1980

MEMORANDUM

To: Environmental Quality Commission

From: Director
NORTHWEST REGION

Subject: Agenda Item No. N, December 19, 1980, EQC Meeting
Public Hearing for Rule Adoption to Allow a Spring
Backyard Burning Season (OAR 340-23-045)

Background

At its June 1979 meeting, the Environmental Quality Commission (EQC) granted an extension of the spring and fall backyard burning periods through 1980. In granting this extension, the Commission directed staff to establish reasonable programs with local governments which would permit the prohibition of backyard burning after December 31, 1980.

The efforts to fully assess the feasibility of prohibiting backyard open burning and to establish reasonable alternative disposal programs has met with a number of obstacles. The Department is continuing to develop the following information: volume of material involved; the environmental impacts; the energy/economic impacts of various alternatives; and an assessment of the public's attitude. The Department is committed to seeking wide public review and comment on the final assessment. To meet this commitment additional time is needed to complete the report, distribute to the public, conduct hearings and evaluate public comment. It is projected that the final report will be completed by February 1, 1981, and that a request for public hearing will be made at the February ^{January 30} EQC meeting. The hearings would be held in March and April and a final report and recommendation made to the Commission in June. 1981

Since the final report will not be completed until May and alternatives to burning will not be available during the 1981 spring clean-up period, it is the Department's belief that the Department's open burning rule should be revised to allow a spring burn period in 1981. This can be done by changing the date listed in OAR 340-23-045(6) (a) from December 31, 1980, to June 30, 1981.



contains
recycled
materials

Authority

Oregon Revised Statute (ORS) 468.020 Rules and Standards (1) states:

"In accordance with the applicable provision of ORS 183.310 to 183.500, the commission shall adopt such rules and standards as it considers necessary and proper in performing the functions vested by law in the commission."

The Notice of Public Hearing (Attachment A), a Statement of Need for Rulemaking (Attachment B), and a copy of the revised rule (Attachment C) (OAR 340-23-045), are attached to this report.

Summation

1. In June 1979, the EQC adopted OAR 23-045(6) (a) (Attachment C) which prohibits open burning of domestic waste in Clackamas, Columbia, Multnomah and Washington counties after December 31, 1980.
2. The date cited in item 1 was granted with the stipulation that the Department establish reasonable programs with local governments which would permit the imposition of a burning ban in the near future.
3. The Department has expended considerable staff time in attempting to assess the overall impact of a burning ban and in developing reasonable alternatives to burning. However, as of this date, information critical to a public understanding of this issue is still being developed to describe waste material volume, environmental impact, energy/economic impact, other burning alternatives, and public attitude.
4. The Department estimates that the final report will be completed by February; that a request for public hearings will be presented to the EQC February meeting; the public hearings can be conducted in March and April and that a final report and recommendation can be made to the Commission in June.
5. The Department is committed to providing the public time to conduct a full review of our assessment of this matter. The staff is opposed to reducing the public review period in order to bring this matter before the Commission at an earlier date.
6. In light of the above schedule, new disposal accommodations other than burning will not be available to the public during the spring yard clean-up period.

7. Because new alternative disposal methods are not available, the Department believes that the Department's open-burning rule should be revised to permit a spring burning period between March 1, 1980, to June 15, 1980.

Director's Recommendation

Based upon the Summation, it is recommended that the Environmental Quality Commission adopt the proposed revised rules contained in Attachment C.

Bill

William H. Young

Attachments: Open Burning Rule
Statement of Need for Rulemaking

T.R. Bispham:g
RS61 (1)
229-5342
December 2, 1980

LOCAL GOVERNMENTS MEETING ON
BACKYARD BURNING

December 24, 1980

<u>Name</u>	<u>Jurisdiction</u>
J. Wayne Daigle	West Linn
Ken Whorton	Milwaukie
Dick Howard	Multnomah County
Walter W. Cate	Clackamas County
Dave Phillips	Clackamas County
Jim Hendryx	City of Beaverton
Bill Berger	City of Lake Oswego
Maxine Borcharding	City of Portland
Cynthia J. Kurtz	City of Portland
Tim Erwert	City of Hillsboro
Richard Brandman	Metro
Rich Gustafson	Metro
Reed Oppenlander	City of Cornelius
Bob Olsen	Metro Councilor, Washington County
Joe Schultz	City of St. Helens

FIRE DISTRICT MEETING On
BACKYARD BURNING

December 24, 1980

<u>Name</u>	<u>District</u>
Marvin Allen	Clackamas County Fire District #54
Ken Owens	Portland Fire Bureau
Tom G. Thompson	Tualatin Fire District
Everett Buttolph	Clackamas County Fire District #54
Russ Washburn	Tualatin R.F.P.D.
Dick Duyck	Washington County Fire District #2
Ed Zick	Happy Valley Fire District #65
Dante G. Petruzzelli	Gresham Fire Department
Loyd Kirby	Corbett, Oregon District #14 Fire Dept.
Steve Wilson	Corbett, Oregon District #14 Fire Dept.
Carey	West Linn Fire Department
Robert Cummings	Fire District #10
William Kelly	Oak Lodge R.F.P.D. #51
John Michels	Oak Lodge R.F.P.D. #51
Ron Hoodenpyl	Gaston R.F.P.D.
Jim Schreiber	Clarkes R.F.P.D. #68
Chan Bunke	State Forestry Dept., Clackamas, Marion
Bill Berger	Riverdale and Lake Oswego, Lake Grove
Roger Jordan	City of Sandy
Rick Peterson	Boring Fire District
Bob Rathke	Sandy F. D. #72
Steve Lockwood	PAQAC
Stan Lynd	Clatskanie R.F.P.D.
Larry Engstrom	Scappoose R.F.P.D.
Bob Hunt	Columbia County Commission
Rollie Martin	St. Helens R.F.P.D.
Loren Gillespie	Rainier R.F.P.D.
Richard Butts	Washington County F. D. #1
Ken Foster	Washington County F. D. #1

123°

122°



Represent: area not previously restricted to twice per year burning periods

Multnomah County

East of the Sandy River.

Columbia County

Entire county.

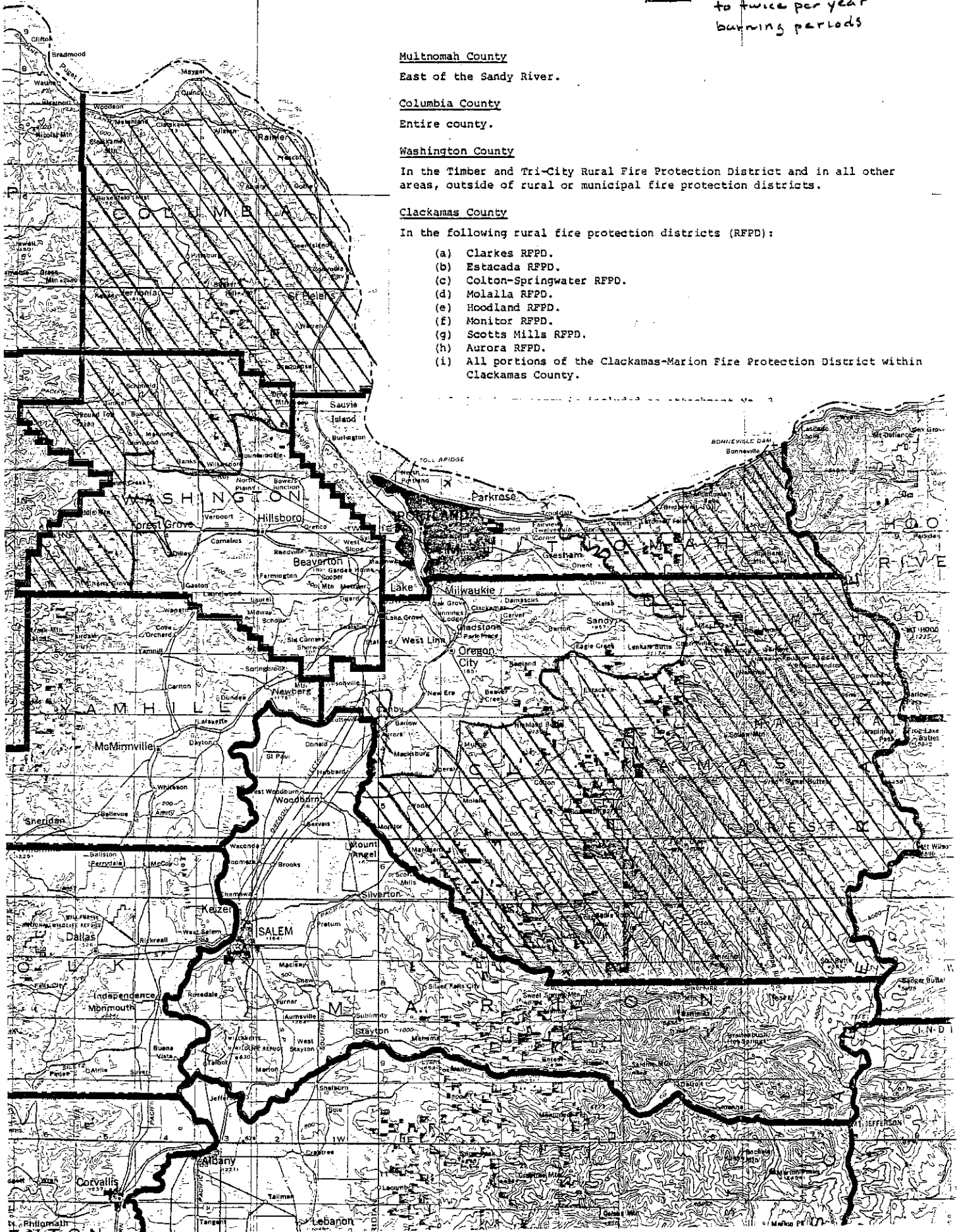
Washington County

In the Timber and Tri-City Rural Fire Protection District and in all other areas, outside of rural or municipal fire protection districts.

Clackamas County

In the following rural fire protection districts (RFPD):

- (a) Clarkes RFPD.
- (b) Estacada RFPD.
- (c) Colton-Springwater RFPD.
- (d) Molalla RFPD.
- (e) Hoodland RFPD.
- (f) Monitor RFPD.
- (g) Scotts Mills RFPD.
- (h) Aurora RFPD.
- (i) All portions of the Clackamas-Marion Fire Protection District within Clackamas County.



Subject: Request for a Temporary Rule to Permit Residential Backyard Burning in Columbia County and Rural Areas of Clackamas, Washington and Multnomah Counties, December 31, 1980.

Statement of Need for Rulemaking

Pursuant to ORS 183.335(5), this statement provides information on the Environmental Quality Commission's intended action to adopt a rule.

1) Legal Authority

ORS Chapters 183 and 468 including 468.020, 468.045, 468.290 and 468.295.

2) Need for the Rule

The proposed temporary rule would remove the ban on residential backyard burning for a 180-day period effective January 1, 1981. The areas effected are those identified as not previously being restricted to twice per year burn periods under OAR 340-23-045(6)(a).

Imposing the ban in these remote areas is not considered reasonable due to limited or no garbage service. In addition, it is believed that promiscuous dumping and creation of fire hazards will increase.

3) Fiscal Impact

Individuals in the remote areas would be expected to increase their volume of waste to be hauled. If collection is not available they would have to haul long distances themselves.

Increased promiscuous dumping or creation of fire hazards could result in increase financial burdens to public works departments and fire districts.

4) Land Use Consistency Statement

This is not relevant.

5) Principal Documents Relied Upon in the Rulemaking

None.

Requirements and Prohibitions by Area

340-23-045 (1) Lane County: The rules and regulations of the Lane Regional Air Pollution Authority shall apply to all open burning conducted in Lane County, provided that the provisions of such rules and regulations shall be no less stringent than the provisions of these rules.

(2) Solid Waste Disposal: Open burning at solid waste disposal sites is prohibited statewide except as authorized by a Solid Waste Permit issued as provided in OAR Chapter 340, Sections 340-61-005 through 340-61-085.

(3) Commercial Waste: Open burning of commercial waste is prohibited within open burning control areas except as may be provided in section (7) of this rule.

(4) Industrial Waste: Open burning of industrial waste is prohibited statewide except as may be provided in section (7) of this rule.

(5) Construction and Demolition Waste: Except as may be provided in this section and in section (7) of this rule, open burning of construction and demolition waste, including non-agricultural land clearing debris, is prohibited within all Open Burning Control Areas except that such burning is permitted:

- (a) In Multnomah County east of the Sandy River.
- (b) In Washington County in all unincorporated areas outside of rural fire protection districts.

(c) In areas of all other counties of the Willamette Valley Open Burning Control Area outside of Special Control Areas.

(6) Domestic Waste: Open burning of domestic wastes is prohibited in the Willamette Valley Open Burning Control Area, except:

(a) Such burning is permitted until ~~December 31, 1980~~
May 30, 1981:

(A) In Columbia County.

(B) In the Timber and Tri-City Rural Fire Protection District and in all areas, outside of rural fire protection districts in Washington County.

(C) In the following rural fire protection districts of Clackamas County:

(i) Clarkes Rural Fire Protection District.

(ii) Estacada Rural Fire Protection District No. 69.

(iii) Colton-Springwater Rural Fire Protection District.

(iv) Molalla Rural Fire Protection District.

(v) Hoodland Rural Fire Protection District.

(vi) Monitor Rural Fire Protection District.

(vii) Scotts Mills Rural Fire Protection District.

(viii) Aurora Rural Fire Protection District.

(ix) All portions of the Clackamas-Marion Fire Protection District within Clackamas County.

(D) In Multnomah County east of the Sandy River.

~~[(E) In all other parts of Multnomah, Washington, and Clackamas counties, for the burning of wood, needle and leaf materials from trees, shrubs or plants from yard clean-up on the property at which one resides, during the period commencing on the first day in March and terminating at sunset on the fifteenth of June and commencing on the first day in October and terminating at sunset on the fifteenth of December.]~~

(b) Such burning is permitted until July 1, 1982:

(A) Outside of Special Control areas in the counties of Benton, Lane, Linn, Marion, Polk and Yamhill counties.

(B) Within Special Control Areas of Benton, Lane, Linn, Marion, Polk, and Yamhill counties for wood, needle and leaf materials from trees, shrubs or plants from yard cleanup on the property at which one resides, during the period commencing on the first day in March and terminating at sunset on the fifteenth of June and commencing on the first day in October and terminating at sunset on the fifteenth of December.

(c) Domestic open burning is allowed under this section only between 7:30 a.m. and sunset on days when the Department has advised fire permit issuing agencies that open burning is allowed.

(7) Open Burning Allowed by Letter Permit: Burning of commercial, industrial and construction and demolition waste on a singly occurring or infrequent basis may be allowed by a letter permit issued by the Department, provided that the following conditions are met:

(a) No practicable alternative method for disposal of the waste is available.

(b) Application for disposal of the waste by burning is made in writing to the Department, listing the quantity and type of waste to be burned, and all efforts which have been made to dispose of the waste by other means.

(c) The Department shall evaluate all such requests for open burning taking into account reasonable efforts to use alternative means of disposal, the condition of the particular airshed where the burning will occur, other emission sources in the vicinity of the requested open burning, remoteness of the site and methods to be used to insure complete and efficient combustion of the waste material.

(d) If the Department is satisfied that reasonable alternative disposal methods are not available, and that significant degradation of air quality will not occur as the result of allowing the open burning to be accomplished, the Department may issue a letter permit to allow the burning to take place. The duration and date of effectiveness of the letter permit shall be specific to the individual request for authorization of open burning, and the letter permit shall contain conditions so as to insure that the burning is accomplished in the most efficient manner and over the shortest time period attainable.

(e) Within the boundaries of Clackamas, Columbia, Multnomah, and Washington counties, such letter permits shall be issued only for the purpose of disposal of waste resulting from emergency

occurrences including, but not limited to, floods, windstorms, or oil spills, provided that such waste cannot be disposed of by any other reasonable means.

(f) Failure to conduct open burning according to the conditions of the letter permit, or any open burning in excess of that allowed by the letter permit shall cause the permit to be immediately terminated as provided in OAR 340-14-045(2) and shall be cause for assessment of civil penalties as provided in OAR 340-12-030, 340-12-035, 340-12-040(3)(b), 340-12-045, and 340-12-050(3), or for other enforcement action by the Department.



Represents area not previously restricted to twice per year burning periods

Multnomah County

East of the Sandy River.

Columbia County

Entire county.

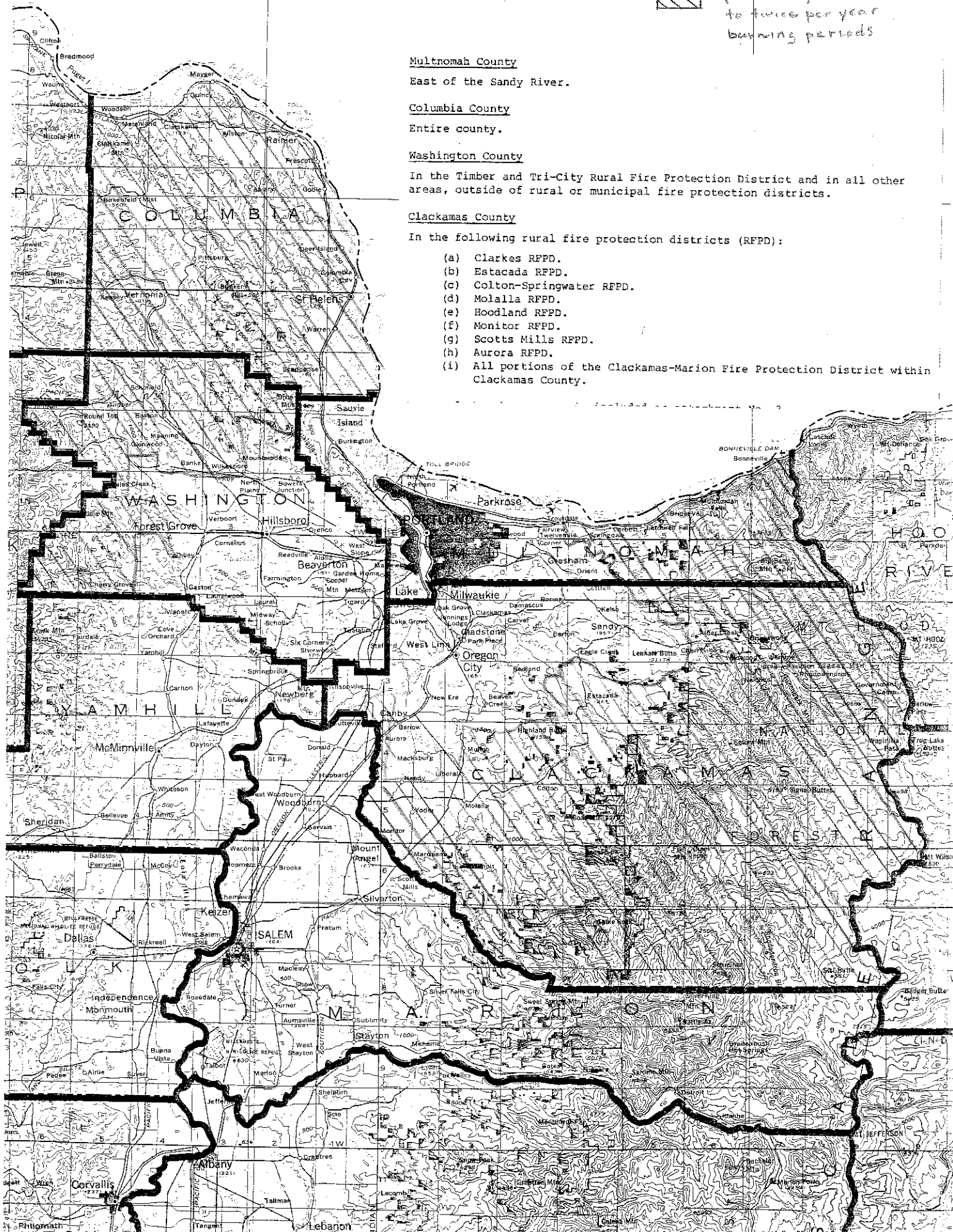
Washington County

In the Timber and Tri-City Rural Fire Protection District and in all other areas, outside of rural or municipal fire protection districts.

Clackamas County

In the following rural fire protection districts (RFPD):

- (a) Clarkes RFPD.
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- (d) Molalla RFPD.
- (e) Hoodland RFPD.
- (f) Monitor RFPD.
- (g) Scotts Mills RFPD.
- (h) Aurora RFPD.
- (i) All portions of the Clackamas-Marion Fire Protection District within Clackamas County.





= Represents area not previously restricted to twice per year burning periods

Multnomah County

East of the Sandy River.

Columbia County

Entire county.

Washington County

In the Timber and Tri-City Rural Fire Protection District and in all other areas, outside of rural or municipal fire protection districts.

Clackamas County

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- (g) Scotts Mills RFPD.
- (h) Aurora RFPD.
- (i) All portions of the Clackamas-Marion Fire Protection District within Clackamas County.

